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ABSTRACT

This volume of the Michigan Speech Association secondary curriculum guide--an expanded version of the 1968 edition (ED 026 393)--is devoted solely to the development of debating skills. The guide is intended to assist teachers in planning a course of instruction in debate and to provide techniques for coaching students who participate in an interscholastic debate program. The eight units provide (1) a general introduction to and discussion of the nature of debate; (2) a presentation of research methods and techniques used in preparation for debate; (3) application of these research methodologies to collect evidence; (4) an outline and explanation of the basic concepts of presumption and burden of proof; (5) instruction in case analysis; (6) practice in refutation and rebuttal of arguments; (7) development of cross-examination debating skills; and (8) an understanding of speaker responsibility through position demonstration. Each unit contains lesson objectives, an outline of lesson content, and suggested learning experiences. Five appendices which consider coaching debate, a sample debate calendar, a case analysis of stock issues, a sample flow sheet, and a transcript of a debate with instructive commentary are included. (LG)

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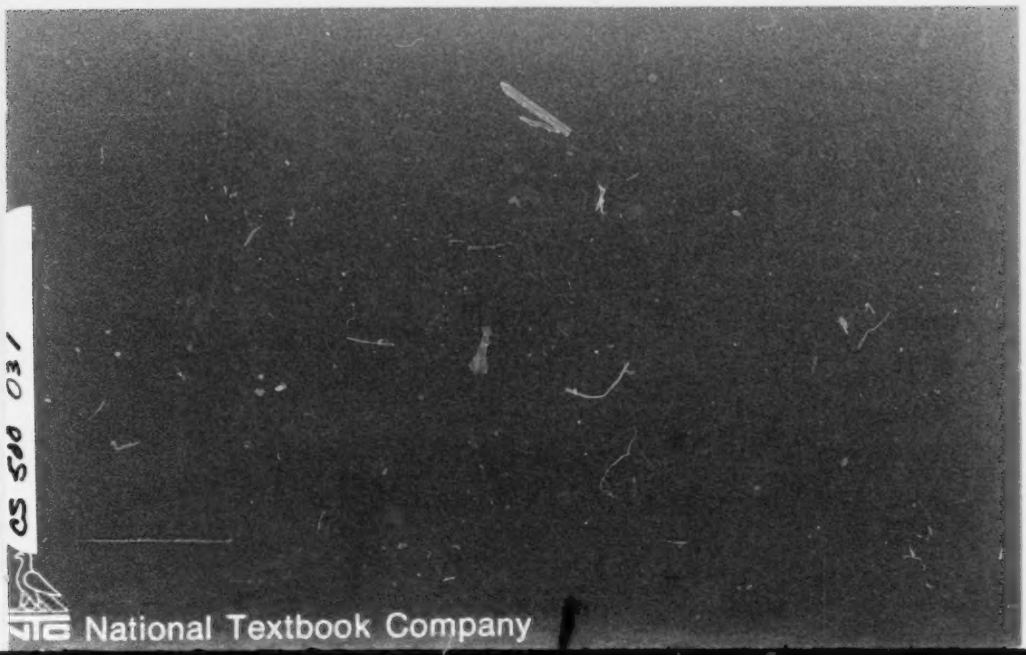
MSA CURRICULUM GUIDE 4

Debate in the Secondary School



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Debate in the Secondary School

THE MICHIGAN SPEECH ASSOCIATION
CURRICULUM GUIDE SERIES

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INTRODUCTION

Exploding knowledge and constant change are the warp and woof of our society. The exponential rate at which knowledge increases forces specialization and teamwork in order for us to effect meaningful change. Teams of scientists develop new methods of combating disease. Teams of social scientists analyze urban stress. Research teams innovate educational methodology. Teams of specialists control space vehicles simultaneously from the ground and from space. Interaction, the fundamental tool of human development, is the keystone of our existence. Therefore, effective oral communication, the primary means of social interaction, becomes an indispensable tool for all men.

The security of a free society rests in the hands of youth. In our classrooms are the leaders of the twenty-first century. Educators are charged with the responsibility of providing youth with the training ground that will enable them to mature physically, intellectually, emotionally, and socially into responsible adults capable of rational decision-making. Youth must cultivate and refine the ability to listen critically, to evaluate objectively, and to express ideas clearly, truthfully, and openly.

Oral communication is the process by which a speaker and a listener attempt to influence each other. It is the integrating factor in achieving productive interpersonal relationships; in the creative development and enjoyment of the arts; and in creative, rational decision-making. Oral communication is essential in achieving meaningful interrelationships between subject areas in team examination of the substantive ideas, ideals, and issues of our time to

the end of nurturing adaptive and innovative decision-making.

The new Michigan Speech Association Curriculum Guide Series includes eight guides:

Speech Activities in the Elementary School
Speech and Drama in the Intermediate School
Speech Communication in the High School
Debate in the Secondary School
Discussion in the Secondary School
Dramatic Arts in the Secondary School
Oral Interpretation in the Secondary School
Radio, Television, and Film in the Secondary School

This series is the product of a $5,200 project jointly funded by the Michigan Speech Association and the Michigan Education Association. Nearly 150 kindergarten through twelfth grade teachers and curriculum directors from metropolitan, suburban, and rural school systems throughout Michigan participated in the project either as reactors or revisers. A reactor completed an extensive questionnaire designed to determine to what extent the 1968 edition of a guide was useful in his particular teaching situation. A reviser taught from a guide for one semester, reviewed the data compiled from the questionnaire survey of that guide, and served as a member of one of the eight revising teams that prepared the new series.

The eight guides are designed for the beginning speech teacher; the teacher who is assigned responsibility for speech but lacks speech training; the teacher of specialized speech courses; and for teachers of courses other than speech who wish to use oral communication as an integrative tool in their courses. Prospective teachers in undergraduate methods courses, libraries, curriculum directors, school administrators, and leaders of youth groups will find the guides useful.

Deldee M. Herman
Sharon A. Ratliffe

PREFACE

HOW TO USE THIS GUIDE

Training in debate can be one of the most thrilling and rewarding experiences in a student's schooling. However, to the inexperienced or unprepared teacher, the responsibility of teaching a debate class or directing an interscholastic debate program can be an awesome challenge. This curriculum guide is intended to help the inexperienced teacher plan a course of instruction in debate and to provide techniques for coaching students who participate in an interscholastic debate program.

Debate is not taught as a theoretical construct at the high school level. Instead it is taught in and out of the classroom with the competitive aspects as a primary factor. Providing a solid theoretical foundation and enough practical experience to establish genuine skill is the purpose of the debate curriculum. The outline of this curriculum guide assumes a semester course supplemented by league and tournament debating.

The more you can read and absorb on debate theory, the greater your chances of effective teaching. At the outset the multitude of materials can confuse rather than console the coach. We recommend that you use two books as the core of your program. The first, Austin Freeley's *Argumentation and Debate*[1], is for the coach's personal background, intended to supplement the student

1. Austin Freeley, *Argumentation and Debate: Rational Decision Making*, 3d. ed. (Belmont: Wadsworth Publishing Co., 1971).

textbook. The second should be a textbook that is provided for each student. You might choose from among the three we recommend.[2] If the program can afford it, evidence manuals should be purchased. Specific recommendations are made in units two and three. Buy one basic manual for each student. Purchase additional single copies of other manuals and use these on a lending basis. They are helpful only to begin research on a proposition. Both educationally and competitively, a handbook serves to "prime the pump" for the hard work of individual research.

Your most difficult job as a coach is to get your debaters started well and to keep them growing until the end of the season. You should not be staggered by the amount of work nor be content with mediocre competency. If there are students in the course who have debated before, they will make the task of clarifying the nature of debate easier by providing examples as you teach the fundamentals of debate. Under no circumstances should you assume that your advanced debaters do not need to review the fundamentals at the outset of a new season. Effective debaters are not debaters who know "secrets." They are simply students who execute the *fundamentals* better than others. Therefore, regardless of the skill and experience of your squad, all of your teaching and coaching efforts should be directed toward helping the students integrate their knowledge of theory and practice so they respond automatically and confidently with the proper adaptation to the problem at hand.

In teaching any of the concepts of debate, two specific processes occur. First, the concept or technique must be understood. This curriculum guide provides both definitions and examples. The student textbook and the more extensive analysis in Freeley should help you thoroughly understand each concept or technique. The second process develops the ability to execute the concept or technique with skill. The unique contribution of this curriculum guide

2. Otto F. Bauer, *Fundamentals of Debate* (Glenview: Scott, Foresman and Co., 1966).
James Murphy and Jon M. Ericson, *The Debater's Guide* (Indianapolis: Bobbs-Merrill Co., 1961).
Russell R. Windes and Robert M. O'Neill, *A Guide to Debate* (Portland: J. Weston Walch, 1964).

is the wealth of coaching techniques listed under learning experiences. These are designed to provide immediate feedback and to allow for correction and refinement through the coach's critique. Short tests at the beginning of the course also help to measure exactly what your students have absorbed.

It is often wise to tell students that some of the concepts will not be clear immediately. The material outlined here must be covered quickly because the students usually must debate within from four to eight weeks from the first day of class. Most coaches start the student researching the topic immediately and that task never really ends. Unit one, "The Nature of Debate," provides activity to help shape research efforts. Units two and three outline initial and advanced research techniques. As you teach each of the units, use the arguments from the students' research to illustrate stock issues, refutation, etc. When you reach unit eight (in four to eight weeks), your students must be debating. Since each unit builds on the previous unit, students will be giving arguments, drilling refutation and rebuttal techniques, and participating in practice debates prior to their first interscholastic debate. Therefore, this debate should be a nontraumatic transition from the previous practice sessions. Get them on their feet and debating early!

As students begin debating, commend them on what they do well, and gently but firmly correct their errors. With a large class, you may on occasion have everyone debating at once in order to provide practice and to relax the students. Individual coaching must be provided to each team immediately after their first or second practice debate. Practice can make poor technique permanent if not corrected immediately. Before and after school practices are necessary to provide opportunity for critiques since class periods do not provide sufficient time. Condition your students to a regular routine of research sessions, class instruction, and practice debates. Each student should have a systematic personal schedule as well as the squad calendar.

Since the theory needs clarification and extension, proceed through units one through eight again after interscholastic debating begins.

The sample debate calendar in Appendix B should give you an idea of how one school with a successful debate program has coordinated these activities. Make your own calendar. Schedule your second coverage of the material to allow more time for case analysis, refutation drills, sharing of evidence, preparing cases, researching, practice debates, and a challenging array of competition. Hopefully this curriculum guide will help you to lead students to do all of these things well. The rewards for the student and the coach are profound and extensive.

Bob Clements
Daryl Fisher
Betty Kujala
James Telfer
Dorothy Tufte
Patricia Uitti
Arthur Voisin

GENERAL OBJECTIVES

1. The student will understand the logical principles of argumentation generally and competitive debating specifically.
2. The student will acquire skill and proficiency in the techniques of analysis and research.
3. The student will develop skill in the orderly and persuasive presentation of ideas.
4. The student will develop judgment and objectivity in the analysis of controversial matters.
5. The student will acquire expertise in the particular problem area being debated.
6. The student will develop maturity in handling the pressures of competition.
7. The student will develop integrity in the use of evidence.

UNIT ONE: THE NATURE OF DEBATE

Introducing the students to the underlying assumptions and general format for a debate helps to provide them with an initial answer to the question, "What's a debate?" The real answer is contained in the totality of involvement in the following units. You will want to cover the initial material here clearly but briefly and return to it when you cover unit four and unit eight.

I. OBJECTIVES

A. The student will understand three types of debate propositions.
B. The student will understand the origin of debate.
C. The student will understand the two formats used in academic debate.

II. CONTENT

A. Debate may be defined as the presentation of arguments and evidence relevant to a specific statement or proposition.
   1. There are three types of propositions.
      a. A proposition of *fact*, which asserts that something is or is not so. (Decisions of the Supreme Court have made it easier for criminals to escape punishment.)
      b. A proposition of *value*, which asserts that something is good or bad, desirable or undesirable. (It

is more desirable to protect the public from the criminal than to protect the criminal from the public.)

c. A proposition of *policy*, which recommends a course of action or policy to be pursued in the future. (Congress should establish uniform regulations to control criminal investigation procedures.)

2. Academic debating is generally concerned with policy questions.
3. The term *debate* is usually associated with the oral presentation of arguments.
4. A debate is presented in an effort to persuade a less involved third party of the rightness of one side or the other.
5. Academic debate is two-sided in form, but multivalued in orientation.
   a. The affirmative side advocates a change from our present policy, belief, or value and supports the proposition.
   b. The negative opposes the proposition.
      (1) The negative may support the existing policy, belief, or value.
      (2) The negative may support a policy, belief, or value fundamentally different from that of either the affirmative or the present system.

B. The major theoretical principles of academic debate are derived from our legal system.
   1. The concept of *presumption* refers to the belief that what exists is right; not because it has been proven to be right, but simply because it does exist.
   2. The *burden of proof* is the obligation of the side advocating a change (the affirmative) to present a reasonable and, ultimately, defensible case for its side.
   3. *Issues* are the vital inherent questions upon which the establishment of the proposition rests.

C. There are two common formats for academic debate.
   1. The cross-examination format
      a. First affirmative constructive (8 minutes)
      b. Negative cross-examination (3 minutes)

c. First negative constructive (8 minutes)
d. Affirmative cross-examination (3 minutes)
e. Second affirmative constructive (8 minutes)
f. Negative cross-examination (3 minutes)
g. Second negative constructive (8 minutes)
h. Affirmative cross-examination (3 minutes)
i. First negative rebuttal (4 minutes)
j. First affirmative rebuttal (4 minutes)
k. Second negative rebuttal (4 minutes)
l. Second affirmative rebuttal (4 minutes)

(Either speaker may cross-examine.)

2. The orthodox format
   a. First affirmative constructive (10 minutes)
   b. First negative constructive (10 minutes)
   c. Second affirmative constructive (10 minutes)
   d. Second negative constructive (10 minutes)
   e. First negative rebuttal (5 minutes)
   f. First affirmative rebuttal (5 minutes)
   g. Second negative rebuttal (5 minutes)
   h. Second affirmative rebuttal (5 minutes)

III. LEARNING EXPERIENCE

Listen to and evaluate a live or tape-recorded debate.

IV. BIBLIOGRAPHY

Freeley, Austin. *Argumentation and Debate: Rational Decision Making.* 3d ed. Belmont: Wadsworth Publishing Co., 1971.

Mills, Glen E. *Reason in Controversy.* 2d ed. Boston: Allyn and Bacon, 1968.

UNIT TWO: PREPARING FOR DEBATE: RESEARCH

Unquestionably one of the most important contributions of debate to the debater is the training he receives in research methodology. An ability to use the library and procedures of analytical research as they apply to a specific proposition are essential for the debater. The debater will soon appreciate that effective research is highly correlated with successful debating.

I. OBJECTIVES

A. The student will independently locate research material in libraries.
B. The student will demonstrate skill in using a library efficiently.
C. The student will rely upon his own independent research.
D. The student will initiate research of the proposition that he will continue throughout the entire debate season.
E. The student will demonstrate that he can select from his research information that is significant to the proposition.

II. CONTENT

A. Many sources of information are available to all high school students to help them acquire information on the proposition.
   1. Previous knowledge of the topic area can provide an introduction to the proposition.
   2. Interviews and discussions with local authorities in the field frequently can be arranged.

3. Every year publications are devoted to the current debate topic.
   a. American Enterprise Institute (1200-17 Street, Washington, D. C. 20036) publishes a special analysis of the topic.
   b. *Congressional Digest* (Aug.-Sept. issue)
   c. *Current History* (June, July, and August issues)
4. Library material particularly useful to students includes:
   a. *Black's Law Dictionary*
   b. *Statesman's Yearbook*
   c. *Statistical Abstract of the United States*
   d. *United Nations Yearly Report*
   e. *United States Book of Facts*
   f. Vertical File Index
   g. *World Almanac*
5. Newspapers can provide significant information.
   a. The *New York Times*, the *Wall Street Journal*, and the *Christian Science Monitor* are especially useful.
   b. Articles from local newspapers are most valuable when they are released from a national press service.
   c. A newspaper article index is available in which newspaper articles are catalogued from newspapers throughout the country. For information about this index, contact Newsbank-Urban Affairs Library, Arcata Microfilm Corp., 808 Wabash Ave., Chesterton, Indiana 46034.
6. Government sources are useful.
   a. Each year the Library of Congress Legislative Reference Service prepares a bibliography and a special collection of articles on the debate proposition. Write your congressman for it.
   b. Special agencies or departments of the government such as the Judicial Conference of the U.S., Civil Rights Commission, and Department of Health, Education, and Welfare should be consulted to see what publications they have available on the debate topic.
   c. Congressional hearings related to the debate topic

may be obtained from your senator or congressman or from libraries that are depositories for government documents.

d. The Superintendent of Documents (U. S. Government Printing Office, Washington, D.C. 20402) has a list of government publications grouped according to interest areas.

7. Special interest groups (i.e., American Medical Association, AFL-CIO, and National Association of Manufacturers) will provide information at little or no cost. The names and addresses of these groups are listed in the *Encyclopedia of Associations* and the *International Encyclopedia of Associations*.
8. Debate handbooks prepared especially for debaters may be ordered from the following companies, listed in the order that the authors recommend them.
   a. National Textbook Co., 8259 Niles Center Road, Skokie, Ill. 60076
   b. Championship Debate Enterprises, P.O. Box 386, Brunswick, Me. 04011
   c. University of Houston Debate Union, University of Houston, Houston, Tex. 77025
   d. Springboards, Inc., 2910 Washington Ave., St. Louis, Mo. 63103
   e. Mid-America Research, 300 N. Waverly, Springfield, Mo. 65802
   f. The *Forensic Quarterly*, National University Extension Association. Purchase through your state forensic association.
   g. J. Weston Walch, Box 1075, Portland, Me. 04104
9. Sources for typed evidence cards which may be purchased include:
   a. C.D.E., P.O. Box 386, Brunswick, Me. 04011
   b. Richard Huseman, University of Georgia, Georgia Debate Cards, Athens, Ga. 30601
10. Fall workshops at local universities or high schools usually provide bibliographies and a general analysis of the topic.

11. There are a number of library indices to consult in preparing a bibliography.
    a. *Business Periodical Index*. Lists articles in business publications.
    b. *Educational Index*. Lists articles pertaining to education.
    c. *Guide to Legal Periodicals*. Lists articles in legal publications.
    d. *International Index*. Lists more scholarly articles in magazines, including foreign magazines.
    e. *Public Affairs Information Index*. Lists pamphlets, government documents, and articles relating to public issues.
    f. *Reader's Guide to Periodical Literature*. Lists articles in popular magazines.

III. LEARNING EXPERIENCES

(Note: As soon as the debate proposition for the coming year is known, many of the following activities can be used.)

A. Have students write to their senators, congressmen, and special interest groups asking for information on the topic.
B. Ask the high school librarian to put relevant books, pamphlets, and magazines on reserve for student use. Perhaps material relevant to the topic could be ordered.
C. Using bibliographies prepared by advanced debaters or yourself, have students identify those items which are available in the school library.
D. Consult faculty members for background information.
E. Take a field trip to a major public library or university library, especially one which is a government depository. Encourage students to do this regularly on their own. In smaller communities where library facilities are minimal, this is a must.
F. Order prepared debate materials, such as debate handbooks, evidence cards, and books on the topic from some of the companies listed.
G. Write to the State Access Office for materials such as books

and magazines which are not readily available in your own school library.

H. Attend fall workshops on the debate topic.

I. Coaches and students should attend their state professional speech association meetings and urge that sectional meetings be held on debate.

J. At the beginning of each season, the coach and the students should read:
   1. Material of a general nature on the topic rather than material of a highly specialized nature
   2. The background and introductory chapters of several basic handbooks
   3. A local newspaper as well as the *Christian Science Monitor* and the Sunday edition of the *New York Times*
   4. General news periodicals, such as *Newsweek*, *Time*, and *U.S. News and World Report*
   5. At least one entire book which gives an objective, overall picture of the proposition

K. Have each student make a rough outline of what he knows about the topic at the beginning of the season. Compile the outlines and begin discussions on general background information on the topic.

L. Hold discussions to analyze the debate topic. Identify major problems and possible solutions involved in the topic. Determine questions relating to the general background and history of the topic.

M. Read specialized periodicals such as *Trial Magazine* for a law topic or *NEA Journal* for an education topic.

N. As case work develops, assign research on a narrow, specialized topic from specific books.

IV. BIBLIOGRAPHY

Buys, William; Murphy, Jack; and Kendall, Bruce. *Discussion and Debate*. Skokie: National Textbook Co., 1964, 15-20.

Windes, Russell R., and O'Neil, Robert M. *A Guide to Debate*. Portland: J. Weston Walch, 1964, 51-73.

Wood, Roy V. *Strategic Debate*. Skokie: National Textbook Co., 1968, 32-60.

UNIT THREE: PREPARING FOR DEBATE: EVIDENCE

The previous unit discussed the general methods and techniques of research. This unit attempts to utilize that knowledge by applying specific research methodology to preparation for debate.

I. OBJECTIVES

A. The student will accurately record and cite evidence.
B. The student will be selective in the evidence he records.
C. The student will organize an efficient filing system.
D. The student will identify the intent of the evidence he records.

II. CONTENT

A. Reading information
   1. Read *general* information to get a good background on the topic area.
      a. Build a quick bibliography of available material.
      b. Start working with the most promising sources.
      c. Skim sources and identify potential evidence.
      d. Read potentially useful sources in depth.
   2. Read for specific information that can be used as evidence to support arguments.
      a. Types of evidence
         (1) Fact
            (a) Any easily verifiable information
            (b) Example: Ford Motor Company manufactures automobiles.

(2) Expert Opinion
  (a) Testimony by an expert in the area under examination
  (b) Example: John Lindsay, mayor of New York City, reported today that "Automobile exhaust is the major cause of air pollution in New York City."
(3) Statistics
  (a) Figures that specify numerical relationships
  (b) Example: The median family income in the U.S. is $10,000 according to the Bureau of Labor Statistics.
(4) Example
  (a) A case or instance that illustrates the point
  (b) Example: Chevrolets, Fords, and Plymouths are medium priced automobiles.

b. Tests of evidence
(1) Is the source reliable? Credible?
(2) Is the information clear?
(3) Is the information recent?
(4) Is the information pertinent?
(5) Is the information an accurate representation of the situation/issue?
(6) Is the information consistent with other information?

B. Recording information
1. How
a. Record only direct quotations and do not alter the meaning of the quotation.
b. Put only one major idea on each card.
c. Use only one side of the card.
d. Make certain that publication information is accurately recorded.
e. Type or write in pen.
f. Include only evidence that you can verify.
2. Where
a. Record evidence on either four-by-six-inch or five-by-eight-inch index cards. Consistently use one size.

b. Include the following information on each card:
   (1) Side of the proposition ("A" for affimative; "N" for negative)
   (2) Subject matter heading
   (3) Author and his qualifications
   (4) Name of publication
   (5) Date of publication
   (6) Page number
   (7) The exact quotation

c. Examples
   (1) Expert Opinion Card

Jury, Qualification N

James Fuchsberg

(President of the Am. Trial Lawyers Assn.)

Congressional Digest August, 1971, p. 37.

"I have learned to know that I don't know one-fifth as much as the 500 years worth of experience that the average jury brings to bear on every problem. The wisdom of the jury is incredible."

(2) Fact Card

Delay & Blocking N

N.Y. Times Oct. 6, 1970, p. 46.

California's penal code puts a 60-day limit on the time between arrest and trial in the absence of 'good cause' for delay. The Illinois code mandates a trial within 120 days after arrest. . . ."

C. Filing evidence cards
   1. Use a cardboard or metal file box for an evidence file.
   2. Devise a filing system.
      a. Issue system
         (1) Divide the evidence into issue areas.
         (2) File the evidence behind index cards that outline the issues.
         (3) Use multiple subdivisions in outline form, moving from the general to the very specific.
         (4) Keep the number of cards in each issue area to six or less.
         (5) Sample issue system on the jury topic
            (a) Arbitration Boards
            (b) Delay and Backlog
            (c) Discrimination
            (d) Exemption of Jurors
            (e) Jury Behavior

(f) Jury Cost
(g) Jury Selection

b. Index Sheet System
(1) Use a letter and number code to file your cards instead of labeling them by issue area.
(2) Give each box a code number, letter major headings, and number subheadings.
(3) Make a master sheet to index your cards.
(4) Sample index sheet

Box I

D. "Selection." (Major heading)

1. *Economic Hardship of Jury Duty.* (Subheading.)
01 Poor pay does not discourage jury duty. (evidence card)
02 Prospective jurors don't have to lose time and money.
03 Jobs must be kept open.
04 Jurors can serve only once a year.

2. *Exclusion of Negroes*
01 Increased chance for Negroes to serve.
02 *Prima facie* rule applies to Negroes.
03 Grand jury indictments thrown out due to exclusion.
04 When blacks excluded, others put in.

3. *Lists*
01 Voter list best.
02 Voter list excludes blacks and poor.
03 Voter list not permitted in South.
04 Status quo can use voter list supplement.
05 City directory good.
06 Telephone lists discriminatory.

III. LEARNING EXPERIENCES

A. Have students do background reading.
B. Have students read for specific information and prepare evidence cards.

C. Demonstrate and practice the correct way to write an evidence card.
D. Read several pieces of evidence and evaluate each according to the tests of evidence.
E. Have the students read the entire article from the original source to validate the accuracy of evidence taken from handbooks.
F. Have students hand in five to ten evidence cards for the teacher to critique.
G. Conduct drills in which one student reads evidence and another student refutes it by using the tests of evidence.
H. Have students develop an argument using several pieces of evidence to support it.
I. Have negative debaters critique affirmative evidence and affirmative debaters critique negative evidence.
J. Switch team boxes and use each other's evidence as a test for the organization of the boxes.
K. Tape students presenting an argument using evidence. Play it back for analysis and evaluation.

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UNIT FOUR: PREPARING FOR DEBATE: PRESUMPTION AND BURDEN OF PROOF

Argumentation in a debate is based upon certain basic principles that determine what the negative argues and what the affirmative argues. Regardless of the proposition, the principles are always the same. This unit attempts to outline and explain the basic concepts of presumption and burden of proof.

I. OBJECTIVES

A. The student will understand the role of basic assumptions in a proposition of policy.
B. The student will apply the basic principles using propositions of policy.

II. CONTENT

A. Presumption
   1. Definition of presumption
      a. The assumption that the present system or status quo should be maintained until good and sufficient reason for change is offered.
      b. Whatever exists is "right," not because it has been proven to be right but simply because it exists.
   2. Justification of presumption
      a. Constant changes based on whims could create massive instability within systems and society.
      b. Change launches one into the unknown and untried

and may produce undesirable consequences.

c. The risk involved in adopting the proposition is justification for the status quo, apart from any other reason for its maintenance.

3. Presumption is the greatest negative advantage.
   a. The affirmative must justify the adoption of the proposition.
   b. The negative should insist that the affirmative prove indictments against the present system; the negative need not prove the opposite.
   c. In a tie debate, the negative team wins because presumption has not been overcome.

B. Burden of proof
   1. Definitions of burden of proof
      a. Good and sufficient argument to establish the adoption of the proposition.
      b. That which overcomes presumption.
      c. The affirmative burden to overcome the risk of the proposition by showing reasons for change that can be gained without significant risks.
      d. The affirmative burden to establish the four stock issues; failure to establish any *one* should result in loss of the debate.
   2. Stock issues. (See Appendix C for more detailed analysis.)
      a. Definition of stock issue
         (1) A basic question, arising out of the prosposition, to which the affirmative must answer "yes" and the negative may answer "no."
      b. Analysis of stock issues
         (1) Is there a *significant* reason for change?
         (2) Is there an *inherent* reason for change?
         (3) Does the affirmative plan solve the problem? Or does the affirmative plan produce significant advantages?
         (4) Will the affirmative plan produce more advantages than disadvantages?
      c. The burden of proof consists of the affirmative carrying *each* of the stock issues.

(1) This is a minimum requirement for justifying the adoption of the proposition.
(2) This is called a *prima facie* analysis and applies to *any* and *all* case approaches.

III. LEARNING EXPERIENCES

A. Have students write out three propositions, one each of fact, value, and policy.
B. Have students prepare a single contention on each of the burden of proof requirements. Begin by using propositions such as: "Resolved: that all students should roller skate to school." Advance to the current high school debate proposition.
C. List a variety of contentions that illustrate the four stock issues. Have students identify the particular issue.
D. Use transcripts of first affirmative speeches from texts, tapes, handbooks, or files. Have students identify each stock issue.
E. Analyze letters to the editor in the local newspaper. List the proposition, the presumption, and what stock issues are argued.

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UNIT FIVE: PREPARING FOR DEBATE: CASE ANALYSIS

The analysis of affirmative and negative cases supercedes every aspect of preparation and presentation. This unit must be integrated with the information on *prima facie* cases in unit four.

I. OBJECTIVES

A. The student will prepare a case analysis of a proposition.
B. The student will understand that there are two sides in every debate proposition.
C. The student will develop systems for preparing cases.

II. CONTENT

A. General guidelines
   1. Specific lines of argumentation must grow out of knowledge about the topic. A knowledge of legislation, current problems, and terms is a starting place.
   2. Include the *prima facie* requirements in the case outline with the possible exception of number four.
   3. Work for depth rather than uniqueness.
   4. There are areas to scrutinize for new elements that create a need for the proposition.
      a. Technological advancements
      b. Threats from foreign powers
      c. Profound political upheavals
      d. Severe economic dislocations
      e. Abrupt social changes
      f. Irrational changes in personal preferences

5. Do not be confused by case labels such as:
   a. Needs case
   b. No-need case
   c. Criteria case
   d. Inherency analysis
   e. Delayed inherency case
   f. Moral issues affirmative
   g. Modified comparative advantages case
   h. Comparative advantages case

B. Affirmative case analysis
   1. Stock issue analysis (See Appendix C.)
   2. Comparative advantages analysis
      a. Comparative advantages cases differ in *where* the stock issues apply and in structure and terminology.
      b. This analysis is used when the present system *and* the affirmative plan can both meet the primary goal of the system or when neither can meet the goal.
      c. The reason for change becomes the ability of the affirmative plan to deliver a secondary advantage, such as speed, efficiency, or comprehensiveness.
      d. The procedures to use in a comparative advantages analaysis include:[3]
         (1) Explaining the status of the primary goal
         (2) Identifying the secondary goal(s)
         (3) Proving the secondary goals are significant
         (4) Proving the secondary goals are unique or inherent in the affirmative plan
         (5) Proving the plan delivers advantages
         (6) Denying or minimizing the disadvantages
      e. The contentions are worded as advantages to the adoption of the affirmative plan which is presented at the outset.
         Example:
         I. The affirmative plan will deliver the advantages of_____.

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3. Michigan High School Forensic Association, *Discussion and Debate Handbook* (Detroit Free Press, 1970), 29.

A. The advantage is desirable. (Significance.)
B. The present system is incapable of delivering this advantage. (Inherency indictment against the ability to reach the secondary goal.)
C. The affirmative plan will deliver this desirable advantage. (Remedy, plan meets advantage.)

f. Thus the affirmative's *prima facie* requirements are established in *each* advantage. (Usually a case claims two or three advantages.)
Example:
Plan: Abolish grand juries and replace with preliminary hearings.
I. Abolishing grand juries offers advantages to the accused.
A. Speedy decisions on indictments are desirable. (Significance.)
B. The present grand jury system is inherently slow. (Inherency.)
C. The affirmative plan can offer competent and speedy decisions on indictments. (Plan meets advantage.)

C. Negative case analysis
1. In the *straight refutation approach*, the negative supports nothing and attacks all affirmative contentions.
2. The *status quo approach* presents a defense of the present system by minimizing the significance issue and by pointing out the many existing structures that eliminate problems that might occur.
3. The *repairs position* assumes that the fundamental principle or structure of the present system is capable of correcting any problems that might exist.
a. The negative denies the inherency of existing problems.
b. The negative suggests that minor repairs within the framework of the present principles can eliminate the problem.
4. The *counterplan approach* requires that the negative

agree with the affirmative that the present system is lacking in several respects and primarily in those areas that the affirmative has outlined.

a. The negative maintains that the negative plan will eliminate the problems better than the affirmative plan can.
b. The negative counterplan must be different in principle from both the affirmative plan and the present system (i.e., the negative plan represents a structural change that does not meet the proposition.)

III. LEARNING EXPERIENCES

A. Hold group discussions on the history of the proposition.
B. Make reports on the various laws that form a basis for the proposition. Discuss each law and how it applies to the proposition.
C. Define all unclear terms that apply to the specific proposition. Consult specialized dictionaries in the topic area of the proposition. If the school library does not have specialized dictionaries, take students to a university library.
D. Discuss the major issues of the proposition. Have each student be responsible for initiating a specific issue and leading discussion on that issue.
E. Discuss the different approaches available to the affirmative and the negative. Evaluate the practical advantages and disadvantages of each approach.
F. Have each student outline a single contention.
   1. Categorize it in terms of the stock issue it fulfills.
   2. Suggest ways of strengthening the wording.
   3. Select the best evidence to prove the contention.
   4. Outline negative arguments against the contention.
   5. Select wording and evidence to answer each attack.

   Use the same system to outline all contentions in the case. Keep the outline simple but work for substantive answers to all objections.
G. Construct briefs for each affirmative case.

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UNIT SIX: PRESENTING THE DEBATE: REFUTATION AND REBUTTAL

Refutation is the process of attacking opposing arguments or of defending one's own arguments. It occurs throughout the debate and is not limited to the rebuttal speeches. Refutation is often the focal point in interscholastic debate. Effective refutation depends on the systematic preparation and presentation of arguments.

I. OBJECTIVES

A. The student will evaluate evidence.
B. The student will identify fallacies in arguments.
C. The student will use various special methods of refutation.
D. The student will demonstrate a systematic preparation for refutation.

II. CONTENT

A. Methods of refuting an argument
   1. Refutation on the evidence
      a. Does the evidence really support the argument it is intended to support?
      b. Is the evidence the most recent available?
      c. Are statistics based on valid and reliable methods of collection and analysis?
      d. Is the evidence consistent with other available evidence?

e. Is the evidence cited representative of the overall point of view of the author?
f. Is the source of the evidence qualified and reliable?
g. Is the authority's own special interest so involved in the topic that he is likely to distort or exaggerate?

2. Refutation on reasoning
   a. Are generalizations based on sufficient and representative examples?
   b. Are generalizations qualified to account for negative instances?
   c. Is the cause necessary to achieve the alleged effect?
   d. Is the cause sufficient to bring about the effect or are there other causes?
   e. Is the causal conclusion based on the fallacy of *post hoc, ergo propter hoc* (after this, therefore, because of this)?
   f. In an analogy, are the two situations comparable in all essential regards?
   g. Is the sign relationship only an accidental or coincidental one?
   h. Is the sign relationship reciprocal?
3. Special methods of refuting arguments
   a. The significance of the argument may be minimized or maximized.
   b. The value premise of the argument may be refuted.
      (1) Deny the primacy of a value by referring to a more important opposing value.
      (2) Deny the universality of the value.
   c. Deny the inherency of the evil and offer a repair of the present system to alleviate the harm.
   d. Point out inconsistencies in opposing arguments.
   e. Reduce the opponent's argument to an absurdity by extending the opponent's reasoning.
   f. "Turn the tables" by using the opponent's argument or evidence to your advantage.
   g. Use the dilemma in which the alternatives are both undesirable.
   h. Expose irrelevant arguments.

B. Common errors in refutation
   1. Facts are distorted or are only partially true.
   2. Assertions are unsupported.
   3. Irrelevant statements are made which divert attention from the issue under consideration.
   4. Ridicule or humor is used as a substitute for an argument.
   5. Debate terms are used without fully explaining what is meant, resulting in a lack of inherency or causal link.
   6. Failure to point out specifically the impact of the refutation on the argument.
   7. Failure to select the arguments that should be refuted.
   8. Failure to eliminate or reinforce key arguments.
   9. Stock arguments are used that do not specifically refute the opponent's argument.
   10. Circular reasoning is used.
   11. Appeals to prejudices and stereotypes are used.
   12. Assumption that what is true of the whole is also true of a part.
   13. Prestige appeals are made instead of argument.
   14. Name-calling is used.

C. Methods of organizing refutation
   1. The five steps in refutation
      a. State the argument to be refuted.
      b. Point out the strategic importance of the argument.
      c. State your stand on the argument.
      d. Present proof.
      e. Conclude.
   2. The AREST formula
      a. State the *a*rgument.
      b. Give the *r*eason why the argument is true.
      c. *E*vidence the argument.
      d. *S*ummarize the argument.
      e. Make a *t*ransition to the next argument.
   3. The SESIC formula
      a. *S*tate the argument.
      b. *E*xplain its importance.
      c. *S*upport with evidence.

d. *I*nfer from evidence.
e. *C*onclude the argument.

D. Language of refutation
1. Avoid vague, clumsy expressions such as:
a. ". . .the point has been brought up. . ."
b. ". . .as our quotes have proved. . ."
c. ". . .they (we) said. . ."
2. Refer to specific issues and arguments.
a. ". . .the contention of workability has been attacked with the argument that. . ."
b. ". . . on the other hand, both Professor X of Brown University and the Director of the National Science Foundation have. . ."
c. "The first affirmative speaker asserted. . ."

E. Techniques and forms for the "last twenty minutes"
1. Selecting the most important arguments
a. Determine crucial arguments.
b. Determine which answers to use as refutation.
2. Economizing language
a. State argument concisely.
b. Answer quickly.
3. Dealing with basic issues
a. Avoid trivia such as: "Pollution is bad. Nobody has said it is good. That's the issue."
b. Relate evidence and minor contentions to basic concepts.
4. Emphasizing what is important by allocating time so as to handle the major issues

F. Preparation for refutation
1. Rebuttal blocks may be prepared in advance of a debate to aid in analysis and organization of refutation.
a. Prepare a list of all arguments anticipated from the stock issues.
(1) Take them from flow sheets of previous debates.
(2) Hold a general discussion covering all types of cases.
b. Prepare a list of possible answers for each specific argument.
(1) List the arguments, the counterarguments, and the

answers consecutively.

(2) Find evidence to support each answer.

c. File the rebuttal card and evidence under the appropriate category in the file box.

d. Rebuttal blocks are general and must be adapted to the specific analysis used in each debate.

Example of a rebuttal block:

Argument: Judges are unqualified to decide court cases.

Counter-argument: Judges are the best qualified to decide court cases.

Position 1: Judges are chosen for outstanding legal performance.
Evidence:
Evidence:

Position 2: Judges are trained in the law.
Evidence:
Evidence:

Position 3: Judges have the benefit of experience.
Evidence:
Evidence:

2. Accurate and systematic note-taking is an important part of refutation.

a. Careful listening is essential for accurate note-taking.

b. A flow sheet will aid in following the clash of arguments through the debate. (See Appendix D: "Sample Flow Sheet.")

(1) Fold a large sheet of paper into eight columns.

(2) Outline the affirmative case in the first column.

(3) Place the negative attacks in the second column opposite the appropriate affirmative arguments.

(4) Place the second affirmative defense in the third column, the second negative attack in the fourth column, and so on through the last affirmative rebuttal.

III. LEARNING EXPERIENCES

A. Conduct rebuttal drills in class.
   1. Divide the class into affirmatives and negatives, with all those on one side sitting together.
   2. Each student should be prepared to present a single constructive argument for two minutes.
   3. After each constructive argument, a member of the opposite side should be selected to provide a rejoinder. The side presenting the constructive argument may be allowed to answer the rejoinder.
   4. The clash of refutation should be halted when either side fails to provide an adequate rejoinder.

B. Have students prepare rebuttal blocks.

C. Present a tape-recorded debate in class. Have the students keep a flow sheet on the debate. Stop the tape at predetermined points and ask the students to identify the methods of refutation being used. Evaluate the flow sheets.

D. Consider fallacies in reasoning.
   1. Bring examples of three fallacies. Name the fallacies and show why each example is a fallacy.
   2. Use a major contemporary speech and isolate specific fallacies. Explain why each fallacy is an error in reasoning.
   3. Present a hypothetical case on a topic familiar to students but one in which they do not have extensive knowledge. The case should contain a number of fallacies. Allow five minutes to prepare refutation against the case.

E. Listen to a tape of a well organized case. Make a flow sheet.

F. Listen to a tape of a poorly organized case. Students prepare a flow sheet, organizing the case as they hear it.

G. Conduct rebuttal drills in which only reasoning and persuasion are admissible. Use no quoted evidence.

UNIT SEVEN: PRESENTING THE DEBATE: CROSS-EXAMINATION

Cross-examination debating has become the most widely practiced type of debate in the United States today. In cross-examination debate, each of the four constructive speeches is followed by a cross-examination period in which the speaker who has just spoken is questioned by a member of the opposing team. Skillful cross-examination sharpens the issues of the debate and enables the debaters to focus evidence, reasoning, and analysis to achieve direct clash on those issues.

I. OBJECTIVES

A. The student will participate in cross-examination debates.
B. The student will demonstrate skill in asking clear, purposeful questions.
C. The student will demonstrate skill in answering questions reasonably and accurately.

II. CONTENT

A. Purposes of cross-examination debate
   1. Clarify obscure points in the opponent's case.
   2. Weaken the opponent's evidence or show lack of it.
   3. Gain damaging admissions regarding the opponent's case.
   4. Point out fallacies in reasoning.
   5. Establish lines of analysis to be used in refutation or rebuttal.

B. General procedural considerations
   1. The questioner is in charge of the cross-examination period.
      a. He should project a pleasant attitude.
      b. He should avoid aggressiveness.
   2. The witness should be confident and cooperative.
      a. Evasiveness makes it appear that direct answers would be harmful.
      b. An overly submissive manner destroys audience confidence in the witness and causes him to make unnecessary concessions.
      c. Flippant responses or tricks such as answering a question with a question should be avoided.
   3. Neither the witness nor the questioner should receive help from his partner during the cross-examination period.
   4. Procedural questions of an arbitrary nature may be resolved by the judge.

C. Tactics of the questioner
   1. Develop questions along the lines of the basic case.
   2. Begin questioning with common ground and proceed to areas of disagreement.
   3. Frame questions clearly and simply.
      a. Use the verb first, then the subject, and finally the object or modifying phrase.
      b. Avoid the use of negative questions.
   4. Limit the length of the witness's answers.
      a. Ask factual questions.
      b. Ask questions having an expected "yes" or "no" answer.
      c. Tactfully cut off long answers.
      d. Ask to see a piece of evidence rather than having the witness read it unless the purpose is to call attention to an obvious misstatement.
   5. Prepare blocks of questions prior to the debate.
      a. Adapt questions to the opponent's responses.
      b. Know the purpose of your questions.
   6. Avoid asking a question unless you are reasonably

sure of the response you will get.

7. Do not comment on the responses or debate the witness.
8. Use a summary question to conclude a line of questioning.

D. Tactics of the respondent
   1. Think ahead and keep constantly on guard by weighing the implications of the answers given.
   2. Answer fairly and honestly.
   3. Qualify your answers when necessary, but do so before responding "yes" or "no."
   4. Do not be afraid to admit you do not know the answer to a question.

E. Use of cross-examination in the constructive speeches
   1. The answers to the cross-examination should be incorporated by the questioner or his partner into the next speech.
   2. Answers obtained during cross-examination should be used to refute or rebuild constructive arguments.
   3. Make effective transitions such as: "As pointed out during the cross-examination period. . . . " or "As admitted under cross-examination. . . ."

F. Prepare blocks of cross-examination questions.
   1. Both sides should plan ahead for possible lines of questioning to use against various case and defense positions.
   2. Anticipate what the other side will use and write out a sample line of questions on a specific argument.
   3. Adapt these general prepared lines of questions to the specifics of a given debate.
   4. Cross-examination blocks are filed in the debate box under the specific category they question.

      Example of cross-examination block:

      "Present jury selection system is discriminatory."

      Q: Is it your contention that the present jury selection system is discriminatory?

      A: Yes.

      Q: Do you base this on the use of the voter registration lists as a prime source of veniremen (jurors)?

A: Yes.
Q: Wouldn't intensifying our effort to get everyone to register to vote increase the effectiveness of this list?
A: You haven't shown that this could be done.
Q: If I can cite you an example of where this has been done, couldn't that solve the problem nationwide?
A: This won't solve the problem of exemptions.
Q: Couldn't the exemptions be abolished or made more restrictive?

III. LEARNING EXPERIENCES

A. Conduct a cross-examination drill. Prepare lines of questions. Practice examining and responding.
B. Incorporate an abbreviated form of cross-examination debate in the earliest stages of debate activities in the classroom. Allow the students to ask a few direct questions while presenting persuasive speeches. Have two-minute cross-examination periods in conjunction with rebuttal drills.
C. Hold practice debates using the cross-examination style.
D. Visit a local, state, or federal court and observe the cross-examination techniques of the courtroom lawyer.
E. Invite a lawyer to talk to the students on preparing lines of cross-examination.
F. Let the students reenact a famous court case. Some students act as witnesses. Two students acting as lawyers create their own lines of cross-examination from the facts of the case. The rest of the class serves as a jury.

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UNIT EIGHT: PRESENTING THE DEBATE: THE RESPONSIBILITIES OF EACH SPEAKER

Each debater has specific responsibilities to fulfill. How well he organizes the use of his allotted time to accomplish these responsibilities determines his effectiveness as a debater.

I. OBJECTIVE

The student will demonstrate that he understands the responsibilities of each speaker by debating in each position.

II. CONTENT

A. Specific responsibilities of each speaker in the debate
   1. First affirmative speaker
      a. Presents the entire case
      b. Establishes the major goal of the status quo (30 seconds)
      c. Defines terms of the resolution (30 seconds). Note: He may define them operationally in terms of the plan.
      d. Presents the major contentions of the case to fulfill the *prima facie* responsibilities (6 minutes)
   2. First negative speaker
      a. Adapts specifically to the affirmative case as presented
      b. Explains the basic negative philosophy demonstrating its relevance to the specific affirmative case (1 minute)
      c. Accepts or rejects the affirmative definition of terms,

explaining and supporting his reasons for rejecting each definition that he chooses not to accept (30 seconds)

d. Engages in a contention-by-contention refutation of the affirmative case in the areas of needs, goals, and advantages (6 minutes). Note: Any repairs counterplan should be presented at this time.

e. Requests clarification of the affirmative plan (1 minute)

3. Second affirmative speaker
   a. Defends and develops the affirmative analysis
   b. Defends or clarifies the definition of terms as necessary (1 minute)
   c. Answers and clarifies questions that the negative may have raised (2 minute maximum)
   d. Engages in a contention-by-contention defense of the affirmative case, being particularly careful to point out arguments not refuted by the negative (7 minutes)
4. Second negative speaker
   a. Points out briefly any attacks made by his partner that were not answered by the second affirmative speaker (1 minute)
   b. Establishes that the affirmative plan will not meet the need they claim (or meet their new criteria) (2½ to 3 minutes)
   c. Establishes that the affirmative plan is not workable (2½ to 3 minutes)
   d. Establishes that the affirmative plan will produce significant disadvantages (2½ to 3 minutes)
5. First negative rebuttal speaker
   a. Points out what the affirmative still must establish in the debate (2 minutes)
      (1) Shows shortcomings in evidence
      (2) Shows failure to establish a *prima facie* case
      (3) Shows logical shortcomings
   b. Focuses on weak points in the affirmative need analysis (3 minutes)
6. First affirmative rebuttal speaker

a. Answers selectively and concisely the major negative plan attacks (2½ to 3½ minutes)
b. Answers concisely the major negative need (advantages or criteria) attacks (1½ to 2½ minutes)

7. Second negative rebuttal speaker
   a. Reviews the major issues of the debate and itemizes those issues already won by the negative (1 to 2 minutes)
   b. Returns to an attack on the plan issues that he thinks he can win
   c. Summarizes the debate from the negative point of view
   d. Calls for concurrence with the negative at the end of the debate (30 seconds)
8. Second affirmative rebuttal speaker
   a. Provides the final affirmative prospective on the debate
   b. Answers the negative plan attack and reestablishes the affirmative plan (2 minutes)
   c. Persuades that the affirmative case should be adopted (2 minutes)
   d. Calls for concurrence with the affirmative

B. General principles that apply to each speech in the debate
   1. Begin with a brief attention-getting introduction.
   2. Use a clear organizational pattern made explicit by numbering the points and using appropriate transitional language.
   3. Conclude with a brief summary of the major ideas presented.

C. Desirable delivery practices for debaters
   1. Maintains eye contact with listeners
   2. Uses a conversational style
   3. Speaks at a conversational rate
   4. Presents evidence clearly and persuasively
      a. Introduces evidence before reading it
      b. Avoids trite introductions of evidence such as:
         (1) "Quote. . .unquote."
         (2) "I have a card here. . ."

(3) "We turn to. . ."

c. Practices reading evidence so as to maintain effective communication

d. Uses a variety of phrases to lead into quotations such as:

(1) "In support of our argument, Professor James Schnell says. . ."

(2) "James Schnell, Professor of Law at Harvard, tells us. . ."

e. Adheres to time limits

f. Uses precise language

g. Centers refutation on the opponent's arguments, not on the opponents

III. LEARNING EXPERIENCES

A. Have first affirmatives prepare and present several skeletal affirmative cases to accustom them to organizing and pacing their speeches.

B. Have first negatives work out several different statements of philosophy and apply them orally to several kinds of affirmative cases.

C. Have second affirmatives practice responses to various negative attacks which go beyond a simple answer to the attack and show the depth of the affirmative analysis.

D. Give second negatives the outlines of affirmative plans and require that they make three specific attacks on each plan. The three attacks should be planned so there is one in each of the areas of plan meets need, workability, and disadvantages.

E. Have the first affirmative respond to expanded negative attacks of about twenty minutes in length. Limit affirmative rebuttal time.

F. Have students tape-record and critique their own content and delivery.

APPENDIX A: COACHING DEBATE

The debate coach must seriously consider his role and its effect on the program he directs. This appendix is designed to help him assess his role.

I. *A philosophy of debate should emphasize the educational values to be derived from participation in the program.*
   A. The program should instruct students in the tools used in developing and presenting arguments of logical and psychological validity in a communicative style.
   B. High standards in the application of these tools will increase winning possibilities, but winning must not be the main objective.

II. *Coaches of debate can encourage student participation by means of a well planned program.*
   A. Recruiting is one of the first jobs for a coach. Following are some suggestions for getting student interest in your program.
      1. Your own classes are the simplest place to begin. These are the students that you know best and are probably the easiest to convince.
      2. Fellow teachers will also be useful in giving you leads to bright students who would be good prospects.
      3. An open meeting after school with adequate advance publicity will also attract prospects.
      4. If you incorporate a short unit of debate in your speech, English, or social studies classes, students

will become interested in your program. Many students are hesitant to show an interest in something they've never tried.

5. In talking with prospective debaters, make use of names of those students who have already committed themselves to your program. Also make use of these committed people for word-of-mouth publicity.
6. Another useful device employed by some coaches is the form letter. These are sometimes sent to every member of a given class (such as all incoming freshmen) or selectively, according to some predetermined qualifier such as grades in English. An outline for a typical letter might be as follows:
   a. A compliment to the addressee.
   b. A short description of the debate program.
   c. A listing of the benefits the student can gain from participation in the program.
   d. A mention of the coach's phone number and his willingness to answer any and all questions about the program.

B. Students can be attracted to the program through a full, balanced, and diversified schedule which offers opportunities to all participants, from the least skilled to the most accomplished.
   1. Such a program should include any or all of the following:
      a. *Practice debates:* both intra-squad and interschool
      b. *Saturday tournaments:* these are usually invitational and offer awards for teams and individuals.
         (1) The awards offer incentive for student participation.
         (2) The students will be exposed to analyses that they may not get in local competition.
         (3) The students enjoy the travel and chance to see other schools as well as making friends from other teams.
      c. *Leagues:* these provide local competition that may

provide opportunities for many students to debate.

d. *Out-of-state activities:* one or two trips may be possible.

III. *Coaches can develop a stronger program by gaining recognition of the activity.*

A. Support of the program may be increased by contacting the community through civic organizations and the press.

B. Alerting the school, administration, staff, and community to the values of debate can enhance the program.

C. Using members of the community and staff as resource persons will alert others of the values to be gained.

D. Providing quality programs for the school and civic organizations can increase interest and provide an invaluable experience for the debaters.

IV. *Coaches of debate must understand principles and methods of judging.*

A. Two accepted philosophies of critic judging exist.

1. One philosophy contends that the debate decision is rendered on the basis of issues.
   a. The affirmative establishes a proposition on the basis of issues which become the criteria for judgment.
   b. The affirmative must win all issues.
2. A second philosophy contends that judging is based on criteria which determine superior debating skill.
   a. The criteria for judging pertain to the debater's skill in analysis of the proposition, adequacy and use of evidence, organization of arguments, reasoning ability, and effectiveness in delivery.
   b. An affirmative can, in this case, lose an issue and yet perform more skillfully.
   c. Because the more skillful debater will generally win the issue, the decision rendered is frequently the same.

B. Coaches should require oral or written critiques based on careful note-taking and consistent criteria for evaluation. (See Appendix D: Sample Flow Sheet.)

C. Ballots should provide space for the judge to state the basis for his decision.

1. Official ballots for league and state activities may be obtained from the forensic association of the state.
2. Official ballots for out-of-state contests may be obtained from the American Forensic Association.
3. Shift-of-opinion ballots may be used for audience voting.

D. Tips for filling out ballots

1. Indicate the basis for the decision.
2. The team that wins should receive the greater total number of speaker points.
3. Provide as many suggestions for improvement as you can.

V. *The coach of debate accepts the responsibility for conducting the activity as an educational program.*

A. A coach directs debaters by constructive criticism, instruction in techniques, guidance in case structure, and introduction to new possibilities in method, ideas, and evidence. He does not write cases for debaters.

B. The coach sets an example for his debaters.

1. He should not criticize judges in front of his debaters, but help the students understand the variation of criteria from judge to judge.
2. He should encourage independent case analysis and research by his debaters, maintaining an attitude of helpfulness and constructive criticism.

C. A responsible coach insists on courteous and ethical behavior. His students should:

1. Avoid whispering, overtly reacting to statements, or just being noisy during another debater's performance.
2. Avoid asking an unreasonable number of questions.

3. Avoid strategies intended to mislead the opponents.
4. Avoid sarcasm and belligerence.
5. Quote references accurately and honestly.
6. Quote the opposition fairly.
7. Present arguments and evidence in adequate time to be answered by the opposition.
8. Seek the most reasonable case, not the unexpected.
9. Accept decisions courteously and treat judges with respect.
10. Observe rules concerning scouting other debates.

D. The coach is responsible for all arrangements for contests.
   1. Some definitions may be helpful.
      a. A *novice* is a debater who is in his first year of debate.
      b. A *junior varsity* debater is one who usually has had a year or more of experience but who has not reached the level of ability characteristic of a varsity debater.
      c. A *varsity* debater is the most effective and usually the most experienced debater.
   2. Communication to participating schools indicating time, place, expenses, and meal provisions must reach schools far enough in advance of the contest to permit coaches to make arrangements.
   3. Provisions for judges should be made two weeks in advance.
   4. Ballots must be provided.
   5. Timekeepers and chairmen must be informed of duties and provided with necessary materials.
   6. Advance publicity in the form of posters, announcements in the school, and press releases will promote interest in a tournament.
   7. Drawing up the tournament schematic, conducting the tournament, and announcing the winner are responsibilities of the host coach.
   8. A coach unable to attend a tournament after he has

registered should notify the director immediately.

E. The coach arranges for the financial budget of the debate program.
   1. The program may be entirely or partially supported by the school board.
   2. The program may be entirely or partially supported by projects, such as selling school calendars, candies, or baked goods; parking cars for school events; providing movies during school lunch hours.
   3. Partial or total support may be gained from civic organizations with the debate team reciprocating by providing programs or assisting the organization in other ways.
   4. The program may be partially or totally supported by a debate booster organization of parents, school alumni, or friends of debate who are willing to conduct projects for the purpose of providing funds.
   5. The coach who has limited funds must make the best use of available resources.
      a. Purchase only one copy of each of the best handbooks.
      b. Attend tournaments instead of participating in several leagues.
      c. Participate in coach-judged leagues or leagues where varsity debaters judge novice debates.
      d. Hire college debaters recommended by their coach to judge at reasonable expense.
      e. Use *qualified* faculty members or townspeople who may be willing to judge without compensation.
   6. The program *should* be supported as a regularly budgeted activity in your school.

APPENDIX B: A SAMPLE DEBATE CALENDAR

This calendar represents the coordination of class activities, practice debates, and interscholastic competition as used in one successful high school debate program. Each coach needs to prepare a calendar to meet the needs of his particular program. Many will find that they cannot cover material quite as quickly or might want to start their students debating sooner even though they may not have covered all of the theory. After the eleventh week, this calendar provides for highly adaptive use of the theory studied earlier. Repetition is the key. Repeat and enlarge the activities until the desired responses are easy and automatic.

This calendar is based on the following basic requisites:

1. A debate class exists.
2. A student teacher and/or a competent varsity debater is available.
3. Several debate leagues are available including leagues for novice, junior varsity, and varsity debaters; leagues the debaters can win in; and Saturday tournaments.
4. Opportunities for evening and after school debate practices exist.
5. Students periodically hand in evidence cards.
6. Several quizzes are given each week for the first few weeks.
7. Two or three major tests are given during the early part of the semester.
8. Students read various sections of *Special Analysis* (published by the American Enterprise Institute, 1200 17th Street, Washington, D. C. 20036).

THE DEBATE CALENDAR

Week One

Session 1. Nature of debate mechanics including:
- A. Time limits
- B. Number of speeches
- C. Concept of affirmative and negative
- D. Debate proposition
- E. Values and experiences of trips, including reports from varsity debaters who attended summer debate institutes

Session 2. Propositions of fact, value, and policy, including concepts of:
- A. Presumption
- B. Resolution
- C. *Prima facie*
- D. Status quo

Session 3. Responsibilities of speakers outlined for all eight speeches.

Session 4. Burden of proof, rebuttal, and rejoinder including:
- A. Examples of written evidence cards
- B. Preparation of evidence cards
- C. Inherency and significance

Session 5. Types of reasoning
- A. Sign
- B. Causal
- C. Example
- D. Analogy
- E. Proof (Include assertion and *reductio ad absurdum.*)
- F. Fallacies

Week Two

Session 1. Stock issues analysis

Session 2. Affirmative case analysis
- A. Types
  - (1) Stock issues
  - (2) Comparative advantages
- B. Format
  - (1) Introduction

(2) Definition
(3) Plan
(4) Advantages

Session 3. Negative analysis with emphasis on first negative speaker responsibilities
- A. Straight refutation
- B. Counterplan
- C. Repairs

Session 4. Second affirmative and second negative responsibilities
- A. Workability
- B. Plan meets need
- C. Disadvantages
- D. Topicality

Session 5. First negative responsibilities
- A. No new arguments
- B. Narrowing
- C. Total emphasis upon needs and advantages

TEST

Week Three

Session 1. First affirmative rebuttal speech
- A. Plan objections
- B. Reestablish affirmative case

Session 2. Second negative and second affirmative rebuttal speeches
- A. Case and plan
- B. Isolating major issues

Session 3. Listen to taped debate.

Session 4. Discuss flow sheet techniques with reference to the taped debate.

Methods for filing cards

Session 5. Discuss debate topic as related to concepts already learned.
- A. Definition of terms
- B. Contentions
- C. Possible approaches to analysis
- D. Research in library using the *Reader's Guide to Periodical Literature*

Week Four

Session 1. Each person brings in an article on the debate topic for discussion.

Session 2. Discussion of six areas of evaluation on a debate ballot in terms of affirmative and negative responsibilities.

Session 3. Discussion of reasoning and presenting an argument.

A. State argument.
B. Explain argument.
C. Support argument.
D. Draw inferences.
E. Conclude.

Each person formulates an argument from his article, showing how it could be supported.

Session 4. Discuss ways to refute arguments.

Session 5. Each person prepares a specific argument with at least two forms of support.

Week Five

Session 1. Ways of testing each type of supporting material

A. Facts
B. Opinions
C. Witnesses
D. Statistics
E. Analogies
F. Causal reasoning

Session 2. Discuss why and when to use inductive and deductive reasoning.

Session 3. Play tape of well organized debate and take flow sheets.

Session 4. Play tape back for discussion and evaluation of the debate and of flow sheets.

Session 5. Discuss each speech on the tape in terms of the responsibilities of each speaker.

Week Six

Session 1. Cross-examination

A. Purpose
B. Methods
C. Types of questions

Session 2. Focus on blocking in the first affirmative constructive speech.
   A. Rationale for blocking.
   B. Diagram lines of analysis and refutation for each contention.

Session 3. Possible arguments that will be considered under the debate proposition
   A. Each person formulates a contention.
   B. Each person refutes these contentions using analysis and evidence.

   Novices attend varsity practice debates.

Session 4. Continue presenting arguments.

Session 5. Divide class into affirmative and negative groups who work with varsity debaters.

Week Seven

Session 1. Discuss tournament and league schedule.
   Work on the affirmative case.
   Negatives prepare possible refutation.

Session 2. Continue work from Session 1.

Session 3. Hold a practice debate with class keeping flow sheets. (Reduce time limits to 6-2-3.)

Session 4. Hold practice debate using different people.

Session 5. Hold practice debate.

During evenings and after school, select and work with students who have the interest and ability to participate in the first tournament.

Saturday. First tournament for novice debaters

Week Eight

Session 1. Evaluate tournament and discuss general reactions.

Session 2. Continue discussion of tournament.
   A. How was affirmative case refuted?
   B. What affirmative cases were heard?
   C. How did negative teams refute?
   D. What evidence and arguments were lacking?

Session 3. Affirmative debaters work to improve their cases. Negative debaters block out refutation to cases they heard.

Rest of class works to get ready for debates in class.

During evenings and after school, hold practices continually with students who have debated.

Session 4. Practice debate

Session 5. Prepare debaters for second novice tournament.

Saturday. Second novice tournament

Week Nine

Session 1. Novice Debate League

Session 2. Discuss and evaluate the cases presented and cases heard.

Session 3. Novice-Yearling League

Session 4. Discuss cases heard, attacks on own case, and block arguments against affirmative cases.

Session 5. Finalize cases and negative positions for Saturday tournament.

After Week Nine

Prepare a calendar for the rest of the semester.

1. There will be varsity, junior varsity, and novice Saturday tournaments.
   a. Discuss debates.
   b. Consider new cases heard.
2. Practice debates should be held during school, after school, and in the evening.
3. Concentrate where work is needed.
   a. Plan attacks should be blocked.
   b. Practice first affirmative speeches and block first negative responses.
4. Plan library sessions.
5. Plan refutation drills.
6. Work on delivery techniques.
7. Practice cross-examination questioning.
8. Plan group discussions of cases and approaches.

APPENDIX C: CASE ANALYSIS OF STOCK ISSUES

This appendix lists the four stock issues as questions, each with a series of subquestions that will help the student determine appropriate indictment for a particular proposition. The answers to the questions come from the research of the student. The problem is to coordinate the evidence with the theoretical burdens.

I. Is there a *significant* reason for change?

A. What is the *nature* of the harm or advantage?
Examples of substantive issues that evolve:
1. Current court procedures are *wasteful*.
2. Grand juries *deny* important constitutional *rights*.
3. Judge sentencing is *unjust*.

B. What is the *scope* of the reason for change?
Under either a harm or an advantage contention, show that at least one of two conditions exists:
1. A great number of people are affected.
2. A small number of people are affected intensely.

Examples:
1. Hundreds of thousands of individuals accept inadequate settlement because of court delay.
2. Empirical evidence establishes that judges are 42% more objective in reaching decisions than juries.
3. Hundreds (a relatively small number) of witnesses are jailed for refusing to answer grand jurors' questions.
4. Pretrial publicity has affected the outcome of important trials (ten to twelve of them).

C. What is the *scope* of the advantage relative to the degree of change? The greater the degree of change, the greater the degree of significance required to justify the risk of adopting the proposition.
Examples:
1. Since juries give inferior or inaccurate decisions twenty to thirty percent of the time (20,000 to 30,000 people), we should abolish the jury. (Big indictment, big change.)
2. By reducing the number of jurors to six, we will save time in selection and money in remuneration. (Little indictment, little change.)

D. What is the *significance* relative to the negative disadvantages? Here the risk of the proposition is measured against the promise of the proposition. Big advantages can outweigh disadvantages and little advantages are enough if there are *no* disadvantages.
Examples:
1. We must solve pollution problems. The future of life on this planet depends on it. Given that, so what if there are problems of inflation from the financing of the program!
2. There is *no need* for indicting grand juries. Abolishing them would save some time and a little money (several million dollars). Since there are *no* disadvantages that justify the proposition, the affirmative proposal should not be adopted.

II. Is there an *inherent* reason for change?
This is a difficult but crucial concept. Some students will not understand it until after they have debated it awhile.

A. Does the indictment center on an essential or fundamental aspect of the present system?
Policy systems usually consist of goals, procedures, checks and balances. Consequently, an indictment against a primary goal, a major procedure, or an established check within a system constitutes an inherent indictment.

Examples:

1. Because black people are subjected to racially oppressive verdicts, the present system fails to meet its goal of equal justice for all. (Goal indictment.)
2. Because the jury system is inherently slower than trial by judge, harmful delays exist in the present system. (Indictment of procedure.)
3. Because the appellate system must uphold the integrity of the jury, the jury errors cannot be corrected in the status quo. (Indictment of checks and balances–the appellate court system.)

B. Can negative repairs solve the problem without adopting the proposition? This is another way of saying the same thing as *A* (above). A distinction between a ***repair*** and an ***inherent change*** in the present system must be made. Repairs change the accidental or incidental aspects of the system. Inherent changes are concerned with things that are essential to systems. Each of the incidental or noncrucial problems can be solved by getting out the needed information (attitude changes) or training the people needed (personnel problems) or buying the needed expertise (money) to enforce current laws. The defects are not structural problems of the status quo. On the other hand, observing a witness's demeanor is a *basic practice of the jury system* as is the compelling testimony by a grand jury or the use of nonexperts by the petit jury. The best discussion of inherency is given by James Unger in *Second Thoughts*.

Example:

Consider the following analysis of the jury system.

Accidental, incidental, or noncrucial	*Inherent*
1. It is expensive or costly.	1. The influence of a witness's demeanor causes prejudiced or unjust decisions.
2. The laws are not being enforced.	2. The grand jury compels re-

3. But we do not have enough. . .

4. People do not want to. . . (Attitudinal indictment.)

luctant witnesses to testify, causing significant harm to the individual.

3. Lack of expertise is inherent to lay juries and causes unjust verdicts.

III. Does the affirmative plan solve the problem? Or does the affirmative plan produce significant advantages?

A. Does the plan work?
Is it functional? Are there enough capable people or mechanical elements to produce the desired effect?

B. Is the plan sufficient?
The question here is whether or not there is a provision to solve *each* element of the affirmative indictment. Three methods are employed to prove this stock issue:

1. If the plan eliminates the causal factors for the harm or absence of an advantage, it is reasonable to assume a solution is viable.
2. Precedents for the plan that have proven successful in other areas can be used as proof by analogy.
3. Specific evidence can be used to argue that the principle of the affirmative case would solve the problem or bring significant advantage.

One of these methods must be used. Otherwise the adoption of the proposition is *not* justified. If possible, use all three.

IV. Will the plan produce more advantages than disadvantages? This particular stock issue is usually initiated by the negative. The requirements of negative disadvantages are similar to the requirements of the affirmative reasons for change.

A. They must flow directly from the plan-causal link.
B. They must possess a high probability of occurring.
C. They must be significant.

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Unger, James J. *Second Thoughts.* Skokie: National Textbook Co., 1971.

ADVANTAGES

APPENDIX D: SAMPLE FLOW SHEET

1st AFF.

Premise: Arbitration preserves due process.

I. Signif. savings of money
- A. *Desirable*
  - Deficit now
- B. *Jury syst. costly.*
  - 200 million dollars
- C. *Arbitration*
  - Save signif. amts. of money.
    1. Arbitrators serve w/o pay.
    2. Arb. costs $62 trial.

II. Signif. savings of time
- A. Speed desirable.
- B. Pres. syst. not capable of speed.
  1. Guarantee civil jury.
  2. S.Q. slow.
  3. Delay harmful.
- C. Compulsory Arbitration
  - Signif. Faster.

1st NEG.

2nd Neg. will disprove. *Extratopical*

Eliminate judge trials.
- Deficit good.
- False figures. Law students footnotes don't support figure.
- Not signif.—total. Fed. budget billions.
- Talking about arb. in small cases only.
- Inherency—Cut defense, cut farm subsidies.

Not significant
- How much speed.
- No. of cases.

Inherency
- Increase judges.
- Go to Arbit. now.
- Only to litigant.
- Waive jury.
- Only been tried on small scale.

Forgetting curve:
- Person forgets everything in matter of hours.

2nd AFF.

Elim. jury trials.
- Signif. change in jury trials.
- Good gov't to save money—do things more efficiently.
- He said 200 million.
- I'd believe him before the neg. team.
- Signif. within jury system.
- No reason why it won't work.
- 1 case. 1 mill. dol. suit.
- Saving money within jury system.

Evidence said it was significant.

Won't work.
- Can't force everybody to go to arb.
- Same argument as last one.
- Already disproven $1 mil. case.
- Evidence *delay* causes harm.

1st NEG. Rebuttal

1. Aff. relies on 3 false extrapolations.
   - A. Cost of 200 million.
   - B. Arb. $62 per case.
   - C. 40% reduction of time. (Juries hear more complex cases.)
2. Extratopical
   - Only way compuls. arb. can work is if they have *no* other alternative. Elim. judge-trial: extratopical.
3. Advantages
   - Deficit desirable. Can't deny it.
   - False figures if they are based on false figures.
   - Not Signif.—Compare to overall fed. budget.
   - Arb. only in cases not complex.
   - Inherency—Cut defense & farm subsidies (if you want to save)
   - Signif. no. of cases not proved.
   - Forgetting curve.
   - Inherency.
     - Increase judges didn't work in *just* 1 area.
     - Litigants only people harmed & they can waive jury & take care of their own problem.

1st AFF.
Rebuttal

Topicality means signif. change in jury.
We abolish all jury.
Deficit or not.
Advantage to save money.
Trying cases for free.
Save signif. money in jury system.
Several cases up to 1 million dollars.
Complex.
Minor repairs don't work.
No answer.

Cut time down to 4 mo. a case.
Only way to guarantee adv. is to adopt plan.

2nd NEG.
Rebuttal

*Extratopicality
Only repetition.
No real answer.
*Harms
1. Money
Deficit good.
No adv. to helping to get rid of it.
2. Time
Harm to litigant.
Waive jury trial.
*Significance
1. Money
Compare to total budget.
False figures.
Still no answer.
2. Time
Forget curve.
Have to try case w/in hrs. to get advantage.
*Inherency
1. Hundreds of better ways to save more money.
2. No *rationale why* judges won't work (increased).

2nd AFF.
Rebuttal

Can't gain adv. w/o eliminating civil juries.
Is topical.
I. Save money.
We could save in other areas too, but we're only talking about jury system.
A. Good practice to save where you can.
B. Can't deny figures.
Why they're not right.
C. Arb. of AAA serve free.
Can't deny.
Will save.
II. Save time.
A. Lit. have no choice.
Judge & jury take too long.
B. Can't deny jury is cause of great delay.
C. Can't deny statistics.
Arb. in past cut time to 4 months from 22 months.

PLAN: 1

Plan-1st AFF.	2nd Neg. Const.	1st AFF. Rebuttal
1. Const. & stat. means.	Extratopical. Don't answer it.	Are changing jury system.
2. Civil jury trials abolished.	*Plan Meet Adv.*	
3. Tried by 3 arb. 2 lawyers & 1 expert. AAA	1. Don't decrease backlog. A. 90% settled before trial. B. More cases before arb. C. Statistics bear it out.	Cut time from 32 months to 2 months.
4. Determine neg. & awards amts.	2. Arb. hearings not faster. A. Arb. hear. not complex. B. Jury hears. complex. C. Both hear. same—Same time.	Arb. hearing just as complex cases ($1 million).
5. Ct. used only to force payment.	3. Gov't. still spending to maintain courts.	
6. Procedures & rules by AAA.	4. A. Arb. will demand pay. Can't save money—or B. Don't pay them. No cases be tried.	Working free now. Have enough to try cases.
	5. Arb. *can't* solve complex cases.	Jury untrained at anything. *At least arb. sh/be* expert.
	Disads.	No proof—Less *justice.*
	1. Lawyers fear retribution. Won't decide against lawyers in AAA	
	2. No pay—Untrained arb.	
	3. Arb. favor specialty defense.	

2nd NEG. Rebuttal

Plan Meet Adv.

1. Doesn't matter how much it's cut.
   Have more cases to fill up time. Back where started.
2. Just because it involved $1 million dollars doesn't mean complex.
3. No ans.
4. Throw more cases at them.
   They won't work free.
5. _____

Disads.

Increase probability of less justice.
Aff. *doesn't deny*
Adv. not significant,
Can gain by other means,
Aff. plan certainly won't gain adv. anyway.
When it increases *probability* of less justice, you should reject plan.

2nd AFF. Rebuttal

Each case take less—
advantaged.

Reason is not complexity.
It is jury itself.

Are working for free.
Public duty.
Won't get a lot more cases.
Dropped.

Can't *prove* less justice.
You've got no reason to believe *any* disads.

APPENDIX E: TRANSCRIPT OF A DEBATE WITH INTERLINEAR COMMENTARY

The following debate was video taped and transcribed as a model for the Michigan High School Forensic Association. Copies of the tape are made available to schools on either a rental or purchase basis. Appreciation is expressed to Mr. John W. Todd, Manager of the Michigan High School Forensic Association, for permission to print the text of the debate, and to Miss Bonnie Dore, Plymouth High School, for video taping the debate.

The cross-examination format is used. This style is often referred to as judicial debate since it is an adaptation of courtroom procedures. The cross-examination period is designed to clarify issues, to probe controversial arguments, and to expose inadequacies in evidence. Following each speaker's constructive speech, he is cross-examined for three minutes by a member of the opposing team. After the constructive speeches and the cross-examination periods, each debater presents a four-minute rebuttal speech.

Although this is a good debate, it is not flawless. It is, however, representative of a high school debate. The purpose is not to emulate everything that is said. Instead, the debate can be used to provide illustrations of how to implement principles of argumentation as well as certain practices to avoid. The debate can also be used as a practical exercise in learning to take a flow sheet. The interlinear comments are offered to assist debate coaches and debaters in analyzing the issues, evidence, and strategy of a debate.

The proposition: *Resolved:* That the jury system in the United States should be significantly changed.

Southfield-Lathrup High School, Southfield, Michigan, upheld the affirmative. John F. Kennedy High School, Taylor, Michigan, had the negative. The debaters were Greg Bator and Steve Lemburg for the affirmative, and Denise Gorsline and Patti Stuika for the negative.

First Affirmative Constructive Speech (Greg Bator)

Because Steve and I have discovered that the jury system endangers two essential rights: the presumption of innocence until proven guilty beyond a reasonable doubt and the right against double jeopardy, we stand *Resolved:* that the jury system in the United States should be significantly changed.

A clear isolation of the premise of the case is offered at the onset.

Recent insights into jury deliberations reveal that this often praised aspect of the jury system does not contribute to just verdicts. The myth of jury deliberations is disclosed in our first contention: *Coercive pressures are inherent in jury deliberations.* There are two such pressures. Our first subcontention: *Coalition pressures are inherent in jury deliberations.* Richard Donald, in *The Yale Law Journal,* tells us in 1968 that: ". . . legal rules make it possible for coalition pressures to work effectively. The mechanism requires above all laws that each member of the jury know how the group is divided. That the most effective way of spreading such knowledge is an open vote or its equivalent, a go-around, where each juror states his opinion."

In addition to coalition pressure, the second coercive force is explained in our subcontention: *verbal pressures are inherent in jury deliberation.* According to "Instructing Deadlocked Juries," by Richard Donald of Harvard University: "Jurors are given wide freedom to browbeat one another. Any kind of verbal harassment, shouting, angry words, and the interruption of speakers at any time is allowed."

We conclude for two reasons that coercive pressures are inherent in jury deliberations.

> Notice that the form for the argument is a clear implementation of "state, prove, conclude." In addition, the stock issue, "Is there an inherent reason for change?" is properly labeled. The two subpoints prove the main point and the wording itself is clear and concise. The use of "coercive" and "pressures" provides strong emotional appeal.

While inconsistent with the myth of jury deliberations, the real harm of such forces is revealed in contention number two: *coercive pressures cause unjust jury verdicts.*

> This is another part of the inherency claim and forms the vital causal link between the existence of the harm as an inseparable part of the system and the harm caused by it. The *nature* of the harm is established here. This is the affirmative's vital definition that establishes their value premise. The remainder of the second contention establishes the *existence* of the value as an operative force that is frustrated in the status quo.

Our basic principle of American jurisprudence is that a defendant is innocent until proven guilty beyond a reasonable doubt. The importance of this proof requirement is explained in our first subcontention: *guilt beyond a reasonable doubt requires the conviction of each juror.* Although often overlooked, the principle of private and individual convictions was clearly documented by the Sixth Circuit Court in the case of *Hibdon* v. *the United States.* The court held that: "There cannot be a verdict supported beyond a reasonable doubt, if one or more jurors remain reasonably in doubt as to guilt." It would be a contradiction in terms. We conclude that guilt beyond a reasonable doubt requires the conviction of each juror.

Unfortunately, deliberations work against guilt beyond reasonable doubt because *coercive pressures destroy individual convictions.* Examine the two current inherent coercive forces and note their devastating effects. One: *coalition pressures destroy individual convictions.* Again Richard Donald of Harvard tells us: ". . .the impact of open polling on dissenting jurors is sometimes so great that they change their votes immediately after balloting,

making it unmistakably clear that the adverse split was the direct cause of their conversion."

Two: *verbal pressure destroys individual convictions.* The 1968 *Yale Law Journal* demonstrates the effects of verbal pressures: "Even for a four-man coalition, much talking tends to set up strains on the coalition members and the strain is greater as the coalition size decreases. Sooner or later a small coalition will probably be unable to keep up with the larger one . . . . The result is usually the conversion of one or more members of the smaller coalition." Surely the effect of these two forces warrants the conclusion that coalition pressures destroy individual convictions.

> The evidence deserves comment. This is the third time the same source of evidence has been used. *In none of the citations was the evidence ever qualified, yet this evidence is critical to the case.*

Finally, realize the pervasive effect these pressures have upon jury decisions. Our third subcontention: *coerced verdicts are significant.* Herbert Jacob in *Justice in America* reveals that in thirty percent of the cases it took only one vote to reach a unanimous decision. In ninety percent of the remainder, the majority on the first ballot eventually won out. This was true regardless of who sat on the jury or who constituted the majority or the minority. We conclude that indeed coerced verdicts are significant. Having established that coercive forces destroy individual convictions and that those convictions are necessary for a just verdict, we conclude that: coercive pressures cause unjust guilty verdicts.

The defendant may be harmed even when verdicts are not coerced. This is explained in our third contention: *uncoerced verdicts may result in double jeopardy.*

> The final contention represents a real coup for the affirmative. When the jury follows its normal procedure, it makes the first two contentions applicable. If it doesn't behave as described in contention two, a separate indictment occurs. This way the affirmative increases the applicability of harm coming from deliberations. Significance is thus magnified.

There are two reasons why this is true. Our first subcontention: *hung juries reflect individual convictions of innocence.* When individual juries remain unconvinced of the defendant's guilt beyond a reasonable doubt, a hung jury is declared. However, the prosecutor has failed to establish his case and the presumption of innocence should still hold. This leads us to the inevitable conclusion: *retrying hung jury verdicts is a denial of the right against double jeopardy.* Establishing the validity of this point is Anthony Morano, Professor of Law at the University of Toledo, 1969: "If the unanimity standard were extended to the logical conclusion, . . . a hung court or hung jury should result in an acquittal rather than retrial. Since the prosecution has failed to meet the legal standard of proof of guilt." Indeed the present system is laden with the crippling inconsistency. We conclude: uncoerced verdicts may result in double jeopardy.

In order to overcome the two injustices of the present system, Steve and I propose the following four point plan:

1.) Jury deliberations will be limited.
2.) Jurors will disperse after each criminal trial and consider guilt beyond reasonable doubt separately, based on the testimony and evidence of the trial.
3.) To aid each juror in his deliberation he will be offered a copy of the transcript and will be able to ask any procedural or legal questions of the presiding judge.
4.) One vote will be taken after these private deliberations. Unless all jurors are convinced of guilt beyond reasonable doubt, the defendant shall be declared not guilty and set free.

The obvious question is, "Does this plan overcome the harms in the present system?" The obvious answer is "Of course!" Let me explain precisely how.

First, the affirmative plan eliminates coerced verdicts because by eliminating deliberations we eliminate the inherent vehicle which fosters coalition and verbal pressures and thus destroys the requirement that the defendant be proven guilty beyond a reasonable doubt. Second, uncoerced verdicts will not result in double jeopardy. By acquitting those not found guilty by unanimous verdicts, we guarantee the prosecutor will have to prove his case be-

yond a reasonable doubt and that innocent people will not suffer double jeopardy. Just as the present system assumes an affirmative case to be adequate until the negative provides a *prima facie* case against it, so too must the defendant be presumed innocent until he is proven guilty beyond a reasonable doubt.

> The third stock issue is competently presented. The plan is concisely outlined and more importantly the plan meet need contention is argued. The affirmative offers all of the *prima facie* requirements in a persuasively worded case.

The present system cannot achieve that goal, and the affirmative plan can. For that reason I suggest you adopt it.

Cross-Examination of the First Negative (Denise Gorsline) by the Second Affirmative (Steve Lemburg)

Q. O.K. Greg, I'm going to talk about definitions. Where did you define coercive?

> The questions here are unimportant since Denise will change the wording anyway. The first question should be: "Does the affirmative team support the present standard of guilt as set forth in the *Hibdon* decision?"

A. We didn't define coercive.
Q. How would you define coercive?
A. A force that causes the juror to change his initial viewpoint.
Q. Isn't the definition of coercive a physical threat?
A. I just gave you a definition. I don't know.
Q. How about the dictionary definition or the *Black's Law Dictionary* definition? Doesn't it define it as a physical force or threat?
A. I'm not aware of it, no.
Q. Oh, you're not aware of it. O.K. Let's talk about guilt beyond a reasonable doubt. The case *Hibdon* v. *the United States*. Did that decision talk about each individual juror before or after deliberation?
A. It said it can't be a verdict supported by proof beyond a reasonable doubt. . . .

Q. O.K. Is that before or after a jury deliberates?
A. I don't see the difference.
Q. Is *Hibdon* talking about after the jury has heard both sides? After deliberations each must be convinced?
A. I think the case is talking about that after the jurors have heard both sides of an issue, and made a decision in their minds.
Q. Isn't that talking about after deliberations?
A. I'm not aware of that.
Q. Greg, have you read the case?
A. I didn't read the entire case, no.

Perhaps a tactical answer. If he hasn't read it, he shouldn't be using it as evidence.

Q. Did you read any part of the case besides what's on your evidence?
A. No. That's all that was necessary.
Q. O.K. Are you aware that *Hibdon* says that deliberations are necessary?
A. No, I'm not.
Q. O.K. Fine. Let's talk of double jeopardy. Where did you define double jeopardy?
A. We offered a definition of double jeopardy in point A.
Q. Who offered the definition?
A. It's a standard definition from the *American Jurisprudence*, or whatever.
Q. Is that where you took your definition from—*American Jurisprudence*?
A. That's where we got our interpretation.
Q. Can you quote me that definition from *American Jurisprudence*?
A. I think Steve can. I'm not sure, though.
Q. Now, let's talk about your case. Talk about the verbal pressure. You said it allows wide freedom. Did you ever show that any people were verbally pressured by the jury in that first piece of evidence?
A. You mean an example?
Q. Well, evidence that says it happens.
A. We presented statistics that say that it happens in the major. . . .

Q. In your I-B point?
A. No, in our I-B and I-A. All we're trying to do is show that these pressures are allowed to exist in jury deliberations. In point II we show the significance of these points.
Q. O.K. Let's talk about the four-man coalition. The majority usually wins out. Did your evidence ever imply that these people weren't convinced that they changed their minds and now they believe the majority was right? Did your evidence say that they still believed their position?
A. No, the evidence. . . .
Q. Couldn't they have changed their minds?
A. That's what Steve and I are saying. They're changing their minds for reasons that aren't true and they shouldn't be changing their minds for those reasons.
Q. After the deliberations do they believe in the verdict they render?
A. Well, Steve can bring up more evidence where they really didn't believe in their verdict.
Q. It doesn't say that.
A. It implies that in the first affirmative.
Q. O.K. The ninety percent majority wins out. Did it ever say because of pressures?
A. Well, the piece of evidence is talking about how just ninety percent of the remainder changed their mind.
Q. It never said because of pressures, did it?
A. Not specifically, no.
Q. O.K. Talk about double jeopardy and who's Morano?
A. He's a professor of law at the University of Toledo.
Q. Who's Richard Downing?
A. He's from Harvard University. He's a research analyst.

Overall a good cross-examination period. The negative pushes where the affirmative is weakest; i.e., evidence and its interpretation. Notice how the most direct questions do the most damage.

First Negative Constructive Speech (Denise Gorsline)

In the 1930s there was a frustrated painter named Adolf Schickelgruber that experienced a phenomenal rise to power. Part

of his philosophy which led to his success was "When you tell a lie, tell a big one." To label jury deliberations or the reflective thinking process as coercion epitomizes the same kind of distortion.

An effective introduction to spotlight the negative's attacks on the interpretation of *Hibdon*.

The gentlemen never define double jeopardy and they never define coercion. I'm going to do that for them as I look at their specific contentions. Now, before going to them, I'd like to make one overall indictment. The gentlemen are relying on emotional wording rather than the strength of the jury system. And they're labeling rational reasoning and reflective thinking as coercion. Never do Steve and Greg prove that a jury decision is forced. As I go down the affirmative case, I'm going to give you the wording as it should be. Consider the first contention as it *should* be worded. *Reflective thinking is inherent to the jury deliberation.* Naturally, we agree. The process of defining the problem and evaluating all possible evidence is the best way to provide a fair decision.

The clever emotional wording of the affirmative to describe the normal functioning of the jury is very effectively nullified.

This is exactly what the jury does through two mechanisms: First, through collective recall. Turn to the *American Jury*, 1966. "The collective recall of the jury is certain to be superior to the average recall of the individual juror." Second, group decision-making guarantees the removal of individual prejudices. Turn to a Supreme Court Justice in the *Tulsa Law Journal*: "The judgment of twelve persons instead of one on questions of fact cannot help but bring about more equitable results. A young person will vote differently than an old. A man differently than a woman. You must have group deliberation in order to assure these prejudices do not carry over."

Turn to *Group Dynamics*, M.B. Shaw, Professor of Psychology, 1971. "Groups usually produce more and better solutions to problems than do individuals working alone." Not only do these sources

agree, but drawing the same conclusions are *Federal Rules and Decisions*, January, 1970; *De Pauw Law Review*, Spring-Summer, 1966; *Equal Justice under the Law*, 1957; *University of Virginia Law Review*, 1960.

> The evidence is impressive and is efficiently presented by stringing on additional sources. This would not be proper presentation of proof if a fair amount had not been read verbatim.

All agree: jury deliberations are by far superior. The best way to get fairness is to have a group decision. We accept the first contention. That's the basic reason for keeping the jury.

But go to the second contention as it should be worded: *reflective thinking causes unjust guilty verdicts*. In point A, they tell you guilt beyond a reasonable doubt requires individual conviction. Understand the whole case telescopes to this definition, and realize first they've distorted the *Hibdon* decision. It's true that you must have individual conviction. But after deliberation, not before, as Greg would have you believe. Now, if you've read the decision, and we have it at our desk, the case is of a man where they couldn't deliver a verdict after twenty-seven minutes of deliberation. Their whole case rests upon that point. The truth is you must have individual conviction, but *after* deliberation, not before. I want them to read any line of the decision which says before deliberation the jury should be convinced. I think they've distorted that decision.

Realize secondly that the principle they've given you is absurd. Relate it to debate. Now, if the principle the gentlemen told you about holds true, that we should have rule by one, then these boys—eloquent young men—would not be state champions because they lost one ballot in the final round. Relate it to democracy. We wouldn't have any laws at all if their principle held true, because somebody is always in disagreement. The principle the gentlemen are advocating is utterly absurd and you have to reject it.

> The attack on the definition of reasonable doubt is the heart of the case. The argument from principle is effective but the

> argument on what *Hibdon* says is poorly handled. It should be read. The definition offered by the negative is fine except it is irrelevant. The question is *how* should the determination of guilt be made? The later cross-examination period exposes the problem

Realize thirdly the only workable criterion for guilt beyond a reasonable doubt is whether or not a man committed a crime. I want Steve to tell you what's wrong with that definition. I think almost everyone in the room would agree, if a man commits a crime, he's guilty. For those three reasons, the definition which their case rests upon is absolutely absurd and you can't accept it.

Now, let's examine point B. As it should be worded, once again: *Deliberation destroys individual conviction.* You know, that's exactly the truth and that's what the jury is supposed to do. Minds are supposed to be changed after going through reasoning and persuasion. It removes prejudices and guarantees a fairer decision. Turn to *American Jurisprudence*: "It is the duty of each juror to consult with his fellows and consider their views, to the end that they each may aid in arriving at the truth."

> This evidence would be more effective and the clash more direct if it were applied against the definition of the affirmative.

Turn to *Corpus Juris Secondum,* No. 89: "A jury should examine a question submitted to them with due regard to the opinion of each other and should try to reach a harmonious result if they can do so."

Group decisions are the fairest way. The jury is supposed to listen to each other. Charles W. Joiner, *Civil Justice and the Jury,* 1962: "Because the prejudices tend to disappear on jury decisions, due to exposure to criteria on the part of other jurors, the process of deliberation leading to jury decisions is so significant, as perhaps the basic strength of the jury." Once again, the B point of the second contention is merely a defense of the present system and Patti and I accept it.

Consider point C, though. They tell you coercive verdicts are

significant. First there is absolutely no significance to the case. Steve and Greg cannot give one example of where a juror was coerced in giving a verdict. Note the definition of coercion from *Words and Phrases:* ". . . mere overpowering personality and unremitting pressure does not constitute force, violence, or *coercion*." I want them to give just one example where a juror was *forced* to give a decision. They don't prove the subpoint unless they do. But second, to show a harm they must show that innocent people are being convicted or guilty men are being let go. That's the only adequate criterion for significance. But I'm going to suggest finally that there is no inherency. If the gentlemen's case were true, you could overturn the decision. *Corpus Juris Secondum*, once again: "Affidavits that jurors never assented to the verdict are admissable in overturning that verdict." An affidavit by a juror to the effect that he was coerced or intimidated by a fellow juror is admissable. You can take the juror and if it's true the decision is going to be overturned [then] there's not any harm at all. I don't accept the second contention. It simply isn't valid.

Examine the third contention. They talk about hung juries and they tell you that uncoerced verdicts are going to equal double jeopardy. Point A: hung juries reflect innocence. I suggest first they're going on a false assumption. I want them to prove to you that the man who didn't commit the crime is the one who's going to have to face the consequences. It's an assumption that the man is innocent and an assumption the gentlemen never proved. Second, if there really was a case of reasonable doubt, the majority would realize it and mitigate the harm. The man would be released and no harm would come about if reasonable doubt did exist. Note that point A is unacceptable. Examine point B. They tell you that retrying of a hung jury equals double jeopardy. I suggest to you first that the affirmative evidence is not talking about double jeopardy as it is now, but as it would be considered in another system.

Second, the affirmative source who suggests a logical extension is unqualified. I want to know how he draws that conclusion. It's not given in the first affirmative. Third, and most important, a hung jury is not always retried. That's the impression they try to give you. Witness the example of Huey Newton, Bobby Seale, and

a number of the Harrisburg Seven. They're let go and not retried. Finally, even if the case is retried it's not double jeopardy. Turn to McGruder's *American Government*: "At a trial in which a jury cannot agree there is no double jeopardy. It is as though no trial had ever been held." The gentlemen have faulty analysis. There is no significance and no inherency throughout the entire case. We demand that Steve answer the arguments in the next constructive. He has to prove the issues in the debate.

This analysis is impressive because of how much is clearly argued. Only the precise wording and *numbering* of points allows this. Both teams are expert at this. Note also that this argument on definition is better handled than the former. Not only is the definition challenged, but the evidence directly refuting it is *read!*

Cross-Examination of the First Negative (Denise Gorsline) by the Second Affirmative (Steve Lemburg)

Q. All right, Denise, you told us how good deliberations are in terms of enhancing recall and removing individual prejudices. Do you have any specific studies which prove this?
A. That individual prejudices are removed?
Q. Yes.
A. I gave you all the sources. I don't have the statistics behind each study. I think the weight of that argument outweighs what you tell me in the first affirmative.
Q. Were these sources based on studies or people's opinion?
A. Probably a lot of them were people's opinions. I can look for specific studies. The *Group Dynamics* one was specifically based on studies. I can give you the name of the studies if you like.
Q. How were those studies made? Do you know?
A. I don't understand. What do you want to know?
Q. How was it determined in these studies that prejudices were removed in deliberations?
A. Probably the same way that your studies determined that jurors are coerced.

The sarcasm reduces an argument where negative evidence is superior to one where the evidence is even. She gives up too much with the statement.

Q. But I'm asking about yours now. Can you explain to me how this was determined?
A. No, I don't think that's important.
Q. You said that in terms of guilt beyond a reasonable doubt that it's after deliberations and not before. If a person is pressured, if his decision is not changed on the basis of rational thinking, don't you think that is a bad way to. . . .
A. It's never been shown that that's what happens. I cannot accept that at all.
Q. Just assume for a minute. . . .
A. I couldn't even assume it. It's too far-fetched. It's out in another world.
Q. If you won't, I guess I won't ask you.
A. O.K.
Q. Then you said this was absurd because if we lost one debate the whole year we shouldn't be the state champs?
A. No, that's not what I said. You lost a ballot in the final round. If your principle held true, you wouldn't be state champions.
Q. I see. Then you tell us the only criterion is whether the man committed a crime. Right?
A. That's right.
Q. How do you tell this? By determining if there's reasonable doubt, right?
A. No. Whether or not he actually committed a crime.
Q. How do you know that? Do you ask him?
A. I would ask him, yes.
Q. So that's how you propose we have our judicial system. You ask him if he committed a crime. . . .
A. No, but when you tell me we're putting innocent men in jail, the only way you can really prove that is to tell me whether or not he committed the crime.
Q. Isn't it true that the only standard we have now is reasonable doubt?
A. I don't think so, no. I don't think that's the only standard.

Q. What other standard is there?
A. Whether or not the man committed a crime.
Q. How do you tell whether or not he committed the crime?
A. Whether he committed the crime. If he went out and robbed a bank, then he committed a crime.
Q. So we really don't need the jury then?
A. No.
Q. You just tell if he committed it, right?
A. Right.
Q. Can you prove that?
A. Prove what?
Q. That you know if someone commits a crime right after it happens.
A. No, I can't prove that!

The cross-examination is not especially productive for the affirmative but the negative fails to offer the standard of the present system as a substitute for the affirmative's interpretation of that standard. The persistence of the affirmative finally shows Denise in a bad light but little has been advanced argumentatively.

Q. Do you accept point II-B that pressures destroy these individual. . . .
A. Not coercive pressures. Yes, I accept that rational thinking and persuasion destroy them.
Q. We told you about coerced verdicts and we told you that coerced verdicts are significant. Did you ever read us any studies to suggest otherwise?

The affirmative challenges the evidence rather harshly in light of their own. The switching of the burden of rebuttal is masterfully done.

A. No.
Q. In terms of appeals, did your evidence ever say that verdicts can be overturned or just that the affidavits are acceptable?
A. That piece of evidence said the affidavits were admissable. The article says they can be overturned.
Q. In terms of double jeopardy you said that it's not double jeop-

ardy because the present system pretends the trial never occurred, right?

A. You told a lot about present system standards. According to the present standard it's not double jeopardy because it's not an actual trial.

Q. O.K. The trial never happened then, right?

A. No. There's no trial in the sense that a verdict is not delivered.

Q. But the trial did occur, right?

A. The trial did occur?

Q. Yes. . . .

A. It depends what your definition of trial is. If you consider it to be complete with a result, then it didn't occur.

Q. Thank you.

This time the distinctions are made under the pressure of cross-examination and this negative definition seems better understood.

Second Affirmative Construction (Steve Lemburg)

Denise tells you first of all that we rely on emotional wording in our case and that we really don't prove that coercive pressure does cause this injustice. Now what I suggest to you is that not only do we rely on emotional wording, we show you very strongly how there are indeed pressures in deliberations. That's what I'm going to do as I go down the case now. It's not the wording so much that's emotional, it's the frightening aspects of what goes on during deliberations and I'll show you that in a minute.

Steve effectively offsets some of the persuasive damage done with Denise's bold rewording of his case.

Go to the first contention: coercive pressures are inherent in deliberations. All we're telling you here is that jurors all must be assembled together during the trial and that they can say whatever they want. Now Denise doesn't want to talk about this. All she wants to do is justify the deliberations. First of all, realize that she never denies the contention, that the jurors must always be there and can say whatever they want. Talk about her arguments. She justifies

deliberations in terms of [how] it enhances the collective recall of the jurors and in addition to that, it removes individual prejudices. What kind of evidence does she use? She uses evidence such as Professor Joiner, who tells you that twelve people can remember more than one person. Number one: she has to prove her point with studies. We want some empirical studies which document her point if we are to accept that deliberations serve a useful function.

Number two: I suggest that it's simply not true, and the reason is the content of argument in deliberations is not decisive. I'll read you the card as soon as Greg gets it to me from section nine in our file box. Number three: I suggest to you they have to justify their argument. In order to do that they have to prove that a significant number of biased or incompetent people get on the jury panel itself. That's what they have to do to justify deliberation. If they don't prove that a significant number of biased or incompetent people get on the jury, even if deliberations could serve a useful function there would be no reason to maintain it.

Let me now read the evidence from my second point. From "Instructing Deadlocked Juries," the *Yale Law Journal*, 1968, Charles Hawkins in his doctoral thesis on jury deliberations: "Evidence available from direct studies of juries in operation tend to confirm that the content of argument is not decisive. As deliberations progress the two sides take more and more radical positions, their arguments increasing in violence and irrationality." This is what happens in deliberations. They talk, number one, about facts in the case, and, number two, on an emotional level where their thinking is not even rational at all. They try to convince other jurors without talking about facts related to the case, only by calling the names of other things. That's not the way decisions should be made, but that's how it's done under the present system. That's why deliberations are not justified. Conclude then with the first contention: coercive pressures are inherent in deliberations. More importantly, though, deliberations are never justified by the negative here.

Go now to the second contention. This is where the harm in the present system occurs. Coercive pressures cause unjust jury verdicts. First of all we gave you the standard of the present system: guilt beyond reasonable doubt requires the conviction of individual jurors. What does Denise say here? Number one: she

tells you we distorted the case. That we distorted *Hibdon* because we didn't point out whether it happened after deliberations or before deliberations. I suggest, though, number one, that unless they justify maintaining deliberations, it's irrelevant where it's determined. Because if they can't justify deliberations, if all that occurs in deliberations is irrational thinking, then even if after the jury deliberates some of them have reasonable doubt, the verdict still does not call for guilt beyond reasonable doubt. And the reason is the jurors' minds were not changed on the issues of the case, but they were changed on irrational factors. And because of that, guilt beyond a reasonable doubt was not established.

Number two: let me further this by turning to *American Jurisprudence*, which points out that all jurors must be convinced beyond a reasonable doubt as to the defendant's guilt. It tells you on page 350: ". . . that the reasonable doubt beyond which the prosecution is required to prove its case, and all the elements thereof, is a reasonable doubt in the mind of any juror, rather than the collective doubt shared by the majority of the jury. If one juror has reasonable doubt as to the guilt of the accused, he cannot vote for conviction with the result under the rule requiring unanimous verdicts, and that there can be no conviction, so long as one juror has reasonable doubt as to the guilt of the defendant." But notice the importance here. Even if he changes his mind due to pressures, he still has that reasonable doubt, because he wasn't changing his mind on the basis of the issue. The value of the present system is that guilt beyond a reasonable doubt requires the conviction of each juror. We tell you of *Hibdon* and *American Jurisprudence*, and she really doesn't deny it.

The argument is shifting from what the standard of the present system is (*Hibdon* in first affirmative) to what the standard should be (a rationally arrived at argument regardless of whether or not deliberation occurred). The current standard is that the conviction of each individual juror must be able to withstand the onslaught of arguments or "pressures" of the group. If it *does* then there *is* reasonable doubt and, in that case, *Hibdon* indicates that the man cannot be convicted. Whether it occurs before or after deliberations *is* very important but both teams could be clearer in explaining why.

Number three: though she says it's absurd because in the final state championship debate, we won on a two-one decision; therefore, we really shouldn't have gotten the decision. That's totally ludicrous. We're talking about someone's life being put in jeopardy; we're not talking about a debate. Her argument doesn't even apply.

And finally, she says the only criterion is, "Did the man commit a crime?" I just want to know how you can tell if a man committed a crime. She's trying to simplify things, much too much. True, that's what you want to tell, now, did a man commit a crime? But how do you tell that? You tell it by using guilt beyond a reasonable doubt. You have to conclude overall, that guilt beyond a reasonable doubt requires the conviction of each juror.

But notice how the system destroys this standard: point B: coercive pressures destroy individual convictions. We talked first about coalition pressure. We showed you how due to coalition pressure, jurors do not vote on the case. That really the defendant should be declared innocent when he's been convicted guilty. Denise here says we're being a little too emotional in our wording. But now let me show not only how emotional, but how frightening coalition pressure is. Turn to a famous series of experiments which point out how frightening coalition pressure really can be. Turn to "Opinions in Group Pressure in Small Groups," 1966: "The power of this coalition influence was demonstrated in a famous series of experiments. Subjects in a group observed lines on white cards and were asked to say which of the four lines matched in length. All of the members of each group except one were coached by the experimenters to give an answer which was deliberately wrong. The one nonsuspecting member of the group, at first unable to believe his ears, in most cases succumbed to the coalition pressures in the group, by giving the same answer as the others." And that's a pretty frightening thing, but if I told you I was holding two cards here, . . . you would be convinced that was true. You know right off that I am holding one card. That's the same thing that happens in deliberations. Jurors know that they're right, but yet their minds are changed due to pressures in deliberation. That is what Greg and I can overcome and Denise never denies it. But, number two: we talk about verbal pressures in de-

liberations. Again, she accepts the point; this is crucial. We tell you that verbal and coalition pressures destroy individual convictions. She doesn't deny it anyway. She accepts it. She just wants to change the wording of it and prove that it's good. She doesn't deny the point.

And, finally, we prove the significance. We tell you coerced verdicts are significant. Number one, she wants us to prove it. Let me do it on two levels. First of all, it affects a significant number of jurors. *The American Journal of Sociology* concludes that published deliberation interviews show that ten percent of jurors are willing to admit that they were pressured into their verdict. That is, they were unconvinced when the vote was delivered. Such figures, no doubt, underestimate the real amount of pressure, since many jurors may not appreciate how their own preconceptions shift as a result of others' opinions. Further, it affects a significant number of verdicts. The *Yale Law Journal* concludes in 1968: "While receiving apparent concurrence of all jurors, most verdicts will in fact represent convictions only of the majority of the critical size or greater transmitted into unanimity by the operation of the dual pressure mechanism."

[This has] significance on two levels. Denise said that we must show the innocent are convicted. If we win point II-A, that's how we win. That standard we give you determines whether or not they are guilty or innocent. Finally, she says we're not inherent because you can have the case overturned on appeal. But you cannot appeal on terms of verbal and coalition pressures.

> Good recognition of the interdependence of arguments. Here comes evidence piece number six from the *Yale Law Journal*. Negative should have applied the affirmative's challenges on evidence to the affirmative's *use* of evidence. Overall, the speech covers a lot of ground but it does not succeed in focusing on the strength of the first affirmative speech. There is too much gloss and a resultant impression of defense rather than offense.

The *Yale Law Journal:* "Cases which, after a ballot, are appealed on the ground that the verdict was unnaturally unanimous, since the sending juror could not get a meaningful sense so quickly

after their opinions . . . are ordinarily dismissed."

And secondly, realize that even if you could appeal it, it won't be overturned because the judge has a lower standard of reasonable doubt. At the end of their monumental study, Kalven and Zeisel concluded that overall, the force of pressure causes unjust guilty verdicts. Denise doesn't deny it.

Finally, examine the aspects of double jeopardy. Point A, that hung juries reflect individual convictions of innocence. First, she says we assume the man is innocent; that's the standard of the present system, we're not assuming anything at all. Second, she says if that's true, then reasonable doubt existed and the jurors would have found him innocent. That's what we're arguing: some find him innocent and some find him guilty. Therefore, he should be set free. Denise is arguing for the affirmative; she doesn't deny the point at all.

Lastly, go to point B: that these hung jury verdicts deny the right against double jeopardy. First, she says our evidence is only a logical extension of the present system, not the present interpretation. That's very true, that's what Greg and I are saying and Denise doesn't want to reply to it. She says it's not a denial of double jeopardy and she refers to the Newton example and says he doesn't have any trials. Overall then, we conclude: we should change the present system.

Cross-Examination of the Second Affirmative Speaker (Steve Lemburg) by the First Negative Speaker (Denise Gorsline)

Q. O.K. Steve, I'd like to talk about your experiment. You tell me people deliberately try to tell somebody something that's false?
A. Right.
Q. Why would anybody want to do that in a jury?
A. The experiment I read in my speech wasn't a jury experiment.
Q. Why would anybody ever do it in a jury?
A. The point I'm saying is that the pressures can cause people to change their minds. Not that one person is lying intentionally but that they have different views and if there are a great many people with one view and just one . . . with the other view he

changes his mind, not on the basis of the issue, but only on the pressure the other people apply to him.

Q. Can you prove it's only on the basis of the pressure in all cases?

A. The card I just read.

Q. That experiment card?

A. No, a different card talking about the jury proved that.

Q. The card that said they get radical as deliberations go on?

A. No, not that card, the evidence said: "While receiving apparent concurrence of all jurors, most verdicts will in fact represent convictions only of the majority of the critical size of greater transmitted into unanimity by the operation of the dual pressure mechanisms." That's what causes it to happen.

Q. Tell me how many verdicts occur where the twelve after deliberations did not agree.

A. I don't really know what you mean.

Q. Tell me how many verdicts [are] delivered where all twelve men don't agree after deliberations.

A. They agree after deliberations, but not on the basis of the facts —on the basis of pressures.

Q. Can you prove they don't agree on the basis of facts?

A. Yes, that's what the evidence just said. They change their minds due to the pressures and not the facts.

Q. Then you can tell me innocent men have been convicted?

A. Right.

Q. How many?

A. A significant number. One card estimates it was well over ten percent, the other estimates it was most verdicts.

Q. Most of the time innocent men are sent to jail?

A. Yes.

Q. That's what your evidence said?

A. Yes.

Q. Read that line.

A. "While receiving the apparent concurrence of all jurors, most verdicts will in fact represent convictions . . . ."

Q. I just want to hear that line: "Innocent men are sent to jail."

A. Oh, that's according to our standard.

Very significant admission. The next question should be "What line in the *Hibdon* decision states that verbal pressures should not be allowed to operate?"

Q. I see. Let's talk about the *Hibdon* decision. Are you referring to individual conviction after or before deliberations?
A. I guess we are referring to them after as well as before. The point is if they change their mind not on the facts in the case. The present system assumes that when they change their minds, they're changing on the issues. If they're not changing their minds on the issues, there's no reason for the standard to change.
Q. If they reach the right conclusion, what's the harm?

Poor question. Question should be "What evidence is there that this is the assumption of the status quo?"

A. If they don't reach the correct conclusion, they're pressured to change their minds.
Q. We're going in circles. How many innocent men are convicted?
A. A significant number.
Q. You tell me affidavits couldn't be used to overturn decisions?
A. I'm saying that affidavits may be admitted but the case won't be overturned.
Q. You said "Ordinarily dismissed." Did you deny the evidence from *American Jurisprudence?*
A. All that I said was that affidavits could be admitted. I . . . agree they can be admitted, but the verdict won't be overturned. That's all that matters.
Q. Can it be overturned?
A. No.
Q. Why?
A. The evidence said that the only place, I didn't read it, that a verdict can be overturned is if before a vote is taken, the jurors agree to go along with the majority.
Q. Fine.

Second Negative Constructive Speech (Patti Stuika)

I think this entire debate is going down to the standard of rea-

sonable doubt. Now Greg and Steve want to maintain that the standard of the present system is that each individual juror must remain convinced when they reach the verdict. Now they have misinterpreted the *Hibdon* decision. What the *Hibdon* decision says is that *after* deliberations every juror must be convinced that he is rendering the right verdict. That's not what Greg and Steve are telling you. Look what they're doing in their plan. They're going to cut out deliberations. Therefore, before deliberations each juror has to be convinced. That's not the standard of the present system. Yet that's what they're trying to tell you is a standard and they're misinterpreting it. I'd like the gentlemen to read the *Hibdon* decision and show me anywhere in it where it says that before deliberation each juror must be convinced and I'd like it in Greg's rebuttal.

Turn to another standard of American jurisprudence and see where that is not the standard present system. Turn to *American Jurisprudence:* "It has been declared that the instruction should embody the rule as to the duty of each juror to consult with his fellows and consider their views to the end that each may aid in arriving at the truth." What does this say? You must consider each other's verdict or you don't have the truth? That's the standard of the present system. That's the standard the gentlemen are ignoring. The whole debate is going to rest on that point and the gentlemen are simply wrong.

Clear, consistent focus for the negative. This is the clearest explanation yet of the standard argument.

Denise and I are going to maintain that the standard of the present system is that we have to protect the individual and that's very true, yet we have to maintain society's rights and that's a dilemma Steve and Greg have within their plan. It is generally recognized that we have to protect the individual, yet we cannot upset the balance and the gentlemen are upsetting the balance entirely in two distinct ways. Under the affirmative plan, by eliminating deliberation, two distinct disadvantages will occur.

First, they'll increase crime. The reasoning here is very simple and explained in three subpoints. A. Right now, sixty-two percent

of the time the judge and jury agree on guilt. That's from the *American Jury*, page 5809. Right now judge and jury concur after deliberations, after they've heard both sides of the case, that in over sixty-two percent of the time the person is guilty. What will happen under the affirmative plan? It's the standard of the present system that at the end of deliberations the jury is convinced the man is guilty; that's what they're going to violate. What's going to happen under this plan? That's explained in point B. They'll only have a nineteen percent conviction rate. The reasoning here is very simple. Right now, when you have the first vote on deliberation, in only nineteen percent of the cases is the jury unanimous for conviction. Under the affirmative plan they'll only convict nineteen percent of the people. Turn to the *American Jury*: "In only nineteen percent of the time do they agree on the first vote." They'll only convict nineteen percent of the current people that are being convicted. What's the harm? Forty-three percent of these people are guilty by the standard of the present system; by the standard of a reasonable doubt. They're going to let guilty people go free. Forty-three percent of the guilty people will go free and what's going to happen? That's going to equal crime. That's the C point: releasing these people will increase crime and the reasoning is again simple. Take an analogy, that of the bail system. Right now, we let people out on bail and what happens? E. B. Williams, former president of the American Trial Lawyers Association, says: "Eighty percent of the current crime is committed by people out on bail." People out on bail commit crimes! That's exactly what's going to happen under the affirmative case. They're going to let guilty people go. That's going to equal crime. You're denying society's rights. Remember the philosophy of the present system is to balance the individual's rights with society's. In this way, they're denying society's rights. They're going to increase crime. An increase in crime not only denies society's rights, it denies each individual's rights because he can no longer be protected by the American judicial system.

Turn to the second disadvantage. They're going to cause a deterioration of American criminal justice. Again three areas of analysis. Point A: They'll increase the number of cases going to

trial. By the affirmative plan, they're going to lower the risk of conviction. Right now, in the present courts we get a sixty-seven percent conviction rate. What's going to happen under the affirmative plan? No longer will we have this high rate of conviction. We'll go down to nineteen percent. As we all know, ninety percent of the current people [tried] plead guilty. What's going to happen under the affirmative plan when you have such a low risk of being convicted? These people that plead guilty will no longer plead guilty. They'll go to the courts and try their chance on having a smart defense attorney who will convince one juror that the defendant was not guilty. Then he'll be let go. We'll have more cases going to court. What will be the result? If you only decrease the guilty pleas by five percent in the arraignment courts and the master calendar courts, it would result in a flooding of the higher judicial system. Only increasing the number of cases by five percent will break down the entire judicial system. And lowering the conviction rate as Greg and Steve propose, they'll have a greater increase and what will happen? We'll have trial delay. Two distinct harms will result. First, the harm to the individual. His case will be destroyed. The longer you wait for the trial, the more witnesses will die, and if you have to wait two years for a trial, your case isn't as strong as it was right after it happened. That's what Marcus Gleisser said, a member of the Louisiana Bar, in *Juries and Justice:* "The delay is long, thus the cases are much weakened by the time they come to trial."

Again, *quality* of evidence problems.

You hurt people, exactly the people that Greg and Steve are trying to help under the affirmative plan. But not only is the individual hurt, but the entire system is hurt because you hinder law enforcement with the long trial delay. Under the affirmative plan, they'll hinder law enforcement. Joseph Tydings in *Deficiencies in Judicial Administration,* Hearings before the Senate Subcommittee on the Judiciary, in 1970: "In our criminal courts trial delay is serving to destroy law enforcement in multiple ways. It serves to increase the time during which additional crimes may

be committed by criminals who remain at liberty while awaiting their trial."

> Tydings is a common source but his qualifications must be offered.

You're going to hinder law enforcement. You're going to hurt the individual by accepting the affirmative plan. We maintain that balance of protecting the individual's rights while protecting society's rights under the present system. They haven't shown any tangible harm to the individual by the standard of the present system. They haven't shown that innocent people are convicted. They are misinterpreting that standard so they don't show innocent people sent to jail. Until they clear this up in Greg's rebuttal, we must ask for negative concurrence.

> Overall, the plan attack is clear and logical. The subordination of arguments is especially good. No "one-liners" here.

Cross-Examination of the Second Negative Speaker (Patti Stuika) by the First Affirmative Speaker (Greg Bator)

Q. O.K. Your first argument about *Hibdon*; in the second part of the the argument you're talking about how all the jurors should consider each other's feelings.
A. That's right.
Q. Is that the same argument that Denise presented?
A. No, it's not. This says the only way to arrive at the truth is to consider everyone's opinion.
Q. Well, isn't that what collective recall is?
A. No, it's not. This is the standard of the present system. When we talk about guilt and innocence this is the standard. Denise is talking about better verdicts.
Q. Well, are you saying we should have group deliberations? [That] we should have the jurors consider each other's decisions?
A. I was talking about that as being the standard of the present system. We must have it.

Q. Fine. Turn to your first argument about increasing crime. Now the whole point rests on whether there is going to be more crime. Go to the one example you gave. The one piece of evidence you tell us about eighty percent of the people out on bail commit more crime. Could you relate that to what we're saying?
A. When you let people who are going to commit crime go, they're going to commit crime.
Q. Why? If they're innocent.
A. That's what I'm saying. You're letting guilty people go free and I showed you why.
Q. First, you have to show that we're letting guilty people. . . .
A. I showed you guilty people were going free.
Q. Where was that?
A. When I told you that right now judge and jury agree that those people are guilty.
Q. Didn't Steve tell you in his speech that the judge has a lower standard of reasonable doubt?
A. Judge and jury both concur. . . . The jury had reached that decision.
Q. Did you ever deny Steve's argument about the judge having a lower standard of reasonable doubt?
A. That's not what we're talking about at all. Judge and jury *both* agree to the standard of the present system.
Q. But the judge still has a lower standard of reasonable doubt, therefore. . . .
A. I don't know about that.
Q. That's what Steve said. Let's go to your B point. Where you tell us about the deterioration of criminal justice. Why won't one smart defense lawyer influence the jury right now?
A. Because it has to be a unanimous decision where all twelve agree.
Q. Why would he want to influence one juror?
A. He wants to get his client off! It's easier . . . to convince one than twelve.

The questioner is allowing the negative to persuasively clinch too many of the negative arguments.

Q. How many people that plead guilty are actually innocent?

Would these be the only people that would take a jury trial?

A. That's not true at all. A lot of people get off right now that are guilty.

Q. Isn't it true that people plead guilty because they want a lower sentence?

A. That's true.

Q. Why will we stop this?

A. If they can get out, they won't plea for a lower sentence when there's a chance they won't get a sentence at all.

Another instance where the questioner is allowing the negative to persuasively clinch too many of the negative arguments.

First Negative Rebuttal (Denise Gorsline)

Patti and I still believe the present system alone can guarantee fair decisions. And I don't think Steve comes to grips with that in his last speech. Examine their first contention: reflective thinking is inherent in jury deliberations. Now, I told you I agree and I'm still going to. The jury has two ways in which they can guarantee a fair decision. One: collective recall; two: through removal of individual prejudices. Steve wants me to give you studies. He doesn't give you any reason why I should list a bunch of studies. I read you twelve or thirteen men who all agree the jury deliberation process is superior.

Expert opinion evidence is fine, but tell us they *are* experts!

I want him to tell you what's wrong with that. But, number two, he tells you that's not true: jury deliberation is not decisive because the arguments are emotional and people get radical. That, of course, is true. People do get radical if they think an innocent man is going to be sent to jail. We get emotional in a debate, but we provide it with reasons. I think that's the exact same thing that happens in a jury. They do get emotional, they do get radical. But they go along with reason. Turn to the *American Jury:* "The process of deliberations is an interesting combination of

rational persuasion, clear social pressure, and the psychological mechanisms by which individual perceptions undergo change when exposed to group discussions. It's the combination of all these things that makes the jury the best way to guarantee decisions."

> The adaptation to the affirmative is quite good and the original point is effectively extended.

Number three, he wants me to prove a bias. The bias is quite simple. Some people are young, some people are old: that's what the bias is. That's what deliberations can stop. Three reasons why the first contention is only a defense of the present system.

Examine the second: reflective thinking causes unjust guilty verdicts. Point A: guilt beyond a reasonable doubt requires individual convictions. I tell you, number one: they've distorted the *Hibdon* decision. He tells you it doesn't matter whether or not it's after deliberations. Look, we're going to maintain that it's after deliberations that you have to have individual convictions. As a result, I want Steve and Greg to show you one case where all jurors did not agree to a verdict, no matter what happened in deliberations. Prove to me when the verdict was rendered, they didn't agree. I'll talk about the way Steve attempts to do that. It's not done in the second affirmative. The *Hibdon* decision is distorted; it's not a standard for guilt.

> More time is needed here on number one. The negative needs to narrow more. Let some less significant arguments die. Number two and three here should have been dropped.

But, number two, their principle is absurd. He told me I was being ludicrous. They're being ludicrous telling you we're going to have rule by one. No place in society do we have rule by just one. I'm not going to accept that principle.

But, number three, the simplest criterion for guilt is whether or not he committed the crime. Steve tells me I'm simplifying and that's right. I'm simplifying because that's the best way to determine guilt or innocence. I don't think that he deals with the argument. We win the A point. In the B point, he tells you coercive

pressures are going to destroy individual convictions. He talks about these great experiments that are so frightening. I agree they are frightening, but they have nothing to do with the jury. He's talking about something else. I'm not going to accept it unless he can relate. Note, then, that doesn't prove anything. I've shown you in a jury you have rational persuasion. Dual pressure does occur—pressure to get the right decision, not to get something that's untrue.

But consider point C. They tell you that coerced verdicts are significant. This is the most interesting point in the whole case. Because, number one: [they] never prove a verdict is forced. That's exactly what they have to do to prove coercion. They tell you ten percent of the juries are pressured and there's dual pressure in a lot of the verdicts. That does not show a verdict is coerced. All that says is people are concerned about getting a right verdict. I agree. [They] never prove a verdict is coerced.

> In constructive and rebuttal, Denise stays too close to the affirmative outline. The definition argument should telescope especially here in the rebuttal. Efficiency is the problem. Don't repeat when you don't have to. The loss of time allows the argumentation on the third contention to practically die.

Go to the third contention. They tell you uncoerced verdicts are going to equal double jeopardy. Point A: hung juries reflect innocence. Realize one point: that's a false assumption. All a hung jury means is that they can't reach a decision, not that the man's innocent. You can't accept it. It's totally false. Go to point B: retrying is double jeopardy. Number one: that's not the present system. Steve admits it. Number two: most of the time men are let go. He has no response at all. Number three: when they are retried, it's not double jeopardy. He can't deny the evidence. I think the jury has to be maintained if we want to get just decisions.

First Affirmative Rebuttal (Greg Bator)

Go to Patti's plan attacks. First, in the case of *Hibdon*, she says it's talking about after deliberation. Then she says that we

should have deliberation so that the jury [members] can talk to one another. Steve denied that whole argument in his constructive speech saying that deliberations don't do that. I'll deal with it when I get there. But, secondly, the *Hibdon* case doesn't matter whether it's before or after. In the present system they assume that a unanimous verdict has the decision of each and every individual juror. Steve and I show where that individual decision is not there; that it's only a majority decision. It's not a unanimous decision in the mind of each juror. It's irrelevant . . . whether the decision is before or after the deliberation.

Second, she said we'll increase the time in trials. Number one: she says that the judge and the jury agree after deliberation. She never denies Steve's argument that judges have a lower standard of reasonable doubt. Therefore, surely they're going to agree that juries pressure the jurors into their decisions. Sure the judges are going to agree; that statistic proves nothing. Then she [talks about] only a nineteen percent conviction rate; then we're going to let all these people go. That's exactly it. These people should be let go. Notice that if we win the standard in today's debate, the standard of each and every individual juror, we win the argument because the argument would then be an irrelevant point.

> Right. But it takes more than an assertion to win the standard argument.

Number four: she tries to relate the eighty percent figure of people out on bail. But that's not true at all. She's got to relate that argument more carefully. Just eighty percent of people out on bail is . . . an entirely different thing. Steve and I showed where we're going to let innocent people go. These innocent people are not going to "recommit" crime.

Point B: she told us that it causes the deterioration of criminal justice. First, it's not unique because a lawyer in the present system can still influence twelve jurors or one juror and get a hung jury. The argument is not unique. But second, it's a value judgment. Do we want convictions and will we want a little bit of delay, or do we want justice for every individual citizen? Steve and I think the value goes to us.

The delay argument is an excellent contrast of values.

Third, Patti makes a very important assumption that she has to prove. She makes an assumption that people plead guilty when they are not really guilty, and that's not true because they plead guilty to get a lower sentence. Until they prove her assumption, she loses the argument.

Return to the case now and notice some key issues. First of all, we pointed out that the myth of the jury deliberations is that it promotes a just verdict. She says twelve or thirteen men agree on jury deliberations. Steve and I have pointed out that it is a myth, and jury deliberations do not contribute to just verdicts. Secondly, she said we do get a just verdict that they hear the witnesses and do get radical and emotional, but Steve showed her where they don't decide the case on important issues; that the content of the argument is not decisive; that they talk about irrelevant things not associated with the case. When they do talk about relevant things, they don't decide the case or the issues. She reads us a piece of evidence which says the people talk about emotional things and get emotional and that decides decisions. She reads a piece of evidence that supports the affirmative case.

> **Greg has not only refused to read the court decision his case is based on and refused to hear certain arguments, but now he goes so far as to refuse to listen to the evidence that was read. Denise's evidence clearly supported the negative case, not the affirmative's. Another study might have nullified the negative attack. As Greg proposes his answer, Denise's attack still holds.**

Steven has another argument she didn't deny at all. She has to prove a significant number of biased people are getting on the jury in the first place.

We pointed out that coercive pressures cause unjust guilty verdicts. Steve showed first that guilty beyond a reasonable doubt requires the convictions of each juror. She says that they don't agree with that. I already showed that it's irrelevant whether the decision is before or after deliberations. Second, she says that's not the best way to decide. We have a jury trial to decide reasonable doubt. That's the only standard that exists in the present system. Steve

and I suggest that should continue. She accepts the second subcontention that coercive pressures destroy individual convictions. It's very frightening. Recall the example that Steve brought out where there were two different sizes of lines, but [when] everybody else was convinced that the lines were the same, that [one] person was convinced that the lines were the same. Notice a person believes something is true, yet he is convinced [otherwise] because of verbal and coalition pressures. That's not the way jury trials should be decided, but that's they way they are decided in the present system. Steve pointed out the significance of that, that ten percent admit that it happened. He also pointed out that it's transmitted by the dual pressure mechanisms. More significance comes from the *Detroit Free Press* of July 25, 1971: ". . . nearly twenty percent of the jurors said that they agreed with the statement on the questionnaire 'At least once in my jury service I felt forced to make a decision I did not really believe in.' "

> The pace of this four-minute speech is too fast. Too many arguments are made with no time to evidence anything. The piece that finally comes is a trump card well played. The issue of whether or not the giving in to deliberative pressure is wrong is not there to complete the argument.

That proves the point that people don't believe in their verdict. But they do go along with the majority. They do give injustice to many citizens. On the third point, she says "It's not double jeopardy." They are placed in jeopardy of life or limb twice. That's what Steve and I have been saying. That's what all our sources say. We think you should adopt our affirmative plan.

Second Negative Rebuttal (Patti Stuika)

There's no longer a third contention in today's debate. Greg dropped it in overtime. They can't go back to it.

> Good indictment but more time needed to get full benefit.

Go back to what they want to talk about. First: [that the] reflective

thinking process is inherent in jury deliberation. They talk about two kinds of pressures. Denise and I accept this contention, and that's why we should maintain the jury. The jury through collective recall, through elimination of prejudices and mistakes. These are the reasons we should keep it. What does Greg say? He says "They get irrational." Again it's not decisive. What does Denise say? She says "Yes, they are irrational and they yell a lot, but they decide it on the issues." And that's what they can't deny. It doesn't matter how emotional you get, if you decide it on the facts. That's the good the jury does. That's what we tell you the jury deliberations are. It's rational persuasion and that's what they can't deny. They ask us to prove that biased people get on the jury. What we're saying is simply that the inherent characteristics of people make them vote differently. Women vote differently than men. Blacks vote differently than whites. You can't remove that kind of prejudice. Yet when you talk about jury deliberations, they can cancel out these kinds of things and that's why we should keep the jury. Those are the reasons we should maintain the jury. Greg and Steve's first contention about the reflective thinking contention falls.

Go to the second contention: the reflective thinking process causes unjust guilty verdicts. They talk about guilt beyond a reasonable doubt and they think that's the standard of the present system. You know they never read that *Hibdon* decision when I told them to. That's not the standard of the present system and this is what the whole debate is going to rely upon. They tell us these people are innocent because the individuals do not think they're guilty beyond a reasonable doubt. Yet what they're talking about is before deliberations. Maybe before deliberations they don't think they're guilty, but when they consider each other's opinions, they think the person guilty. O.K. What's that? *That's* the standard of the present system because the standard of the present system is that you cannot judge reasonable doubt until *after* deliberations. That's what *Hibdon* says; that's what the *American Jurisprudence* says; and that's what Greg and Steve are ignoring. They're not going by the standand of the present system. They haven't justified their own standard. That's very important because that's what the entire debate rests upon now.

Go to point B: coercive pressures destroy coalition. We talk about

this principle of "guilty beyond a reasonable doubt" being completely absurd. Go to the University of London, 1968, *In the Jury*, page 262: "It is wrong in principle that a defendant's guilt should be a matter for a single opinion, reached without discussion." That principle is faulty; it isn't the principle of the present system. But they can't show that any juror was ever forced to make a decision. That's what coerced means. They can't prove that any juror was forced to make a decision.

Go to their point C: coerced verdicts are significant. Again, they haven't shown that anybody is forced to make a decision against his will. Greg reads some evidence that says that twenty-six percent don't believe their verdict, but, you know, what that can be? I'm not willing to believe a lot of things that evidence says. If they have it, I have to believe it. That assumption that Greg is going on is totally irrelevant. It's not what he's trying to say.

> Excellent narrowing of issues, especially since these were originally Denise's arguments. Her standard argument gains full force here. The application argument in response to the "trump card" doesn't come up to standard. The plan attacks are less important and the lesser emphasis is a wise choice since the definition arguments would nullify all of them if it were lost.

Return to the plan attacks. We're going to increase crime. He says we are going on the assumption that the judge has a lower standard of proof. That's right. What Greg and Steve are saying in their case is that the only way we can judge whether a defendant is guilty or not is by the standard of reasonable doubt. And that's what I'm going by. Using the present system's standard of guilt beyond a reasonable doubt, we have to conclude that in sixty-seven percent of the cases that the people are guilty, because the jury, by unanimous decision after deliberations, concluded that beyond a reasonable doubt the man is guilty. That's why our plan attack applies and Greg doesn't want to deny that. Secondly, they'll cause a deterioration of criminal justice. He says it's not unique. It is unique because it's easier to convince one person you're telling the truth than all twelve of them. That's what they don't deny. These disadvantages to the affirmative plan are crucial. We have to ask for negative concurrence.

Second Affirmative Rebuttal (Steve Lemburg)

Talk about plan attacks. First of all, we're going to increase crime. Notice she ignores two of Greg's three responses. That if we win the standard we give you, we win the plan attack. Now she talks about the judge having a lower standard, but she never denies that if we win point II-A the person really should be set free. And we tell you further that their statistics don't tell a thing. Because maybe eighty percent of the people out on bail commit crime, that's because they may know they're going to be convicted and spend the rest of their lives in jail anyway. They don't care what they do. Whereas, under our plan, once they're let go they realize that they're not going to jail and then they may not commit the crime. Their statistics didn't prove anything and Patti didn't come back to it.

The second plan attack: that there will be a deterioration of criminal justice. First, Greg tells you it's not unique. Prove that you can influence one person a lot easier than twelve. Patti asserts it in her speech. She never proves the assumption behind her attack. Second, Greg tells you the value. Patti doesn't want to deny that. Most importantly, though, is the third response: that this argument assumes that people plead guilty when they're really not guilty. But they just want to make sure they get a lesser sentence, not because they really committed a crime. Patti doesn't want to prove the assumption of the argument. She assumes many things in both attacks; she really doesn't carry either one.

I turn to the case and see why we justify eliminating deliberation. First, we tell you how coercive pressures are inherent in deliberations. Here they admit the fact that they only want to talk about justification for deliberation. But notice how our extensions stand. First of all, they have to prove their point with studies. Denise comes back in the first negative rebuttal and says, "Yes. I gave you twelve or thirteen sources and that should be enough." I don't care if she gives me a hundred sources. She reads twelve or thirteen people who say that deliberations are a great thing and this is what people want you to believe. Jury deliberations are a myth. That's not what really happens. We challenge them for a study. We quoted a study in the *Yale Law Journal* and Charles Hawkins'

doctoral thesis. She doesn't respond. Second, we tell you how it's forced and they only decide on irrational factors, not the issues in the case. Denise comes back in the first negative rebuttal and reads you a card that says they decide on rational persuasion, pressures, and factors. Greg says that this was an affirmative card. They don't come back on it. They prove our point and we win this.

> It is important not to claim things that did not happen. Debate is an ethical pursuit.

Finally, we challenge for justification. Prove a significant number of biased or incompetent people get on the jury. All they say is young people get on and black people get on and they obviously have biases. First, they don't prove it. More importantly, they don't prove it's significant and that's what we challenge for.

Go to the second contention: coercive pressures cause unjust guilty verdicts. We gave you the standard of the present system. She comes back in her last rebuttal and says we're not giving the standard of the present system. You must have guessed by now that this is an important point and notice how we win the issue. We tell you that you must convince the minds of each juror that someone is really guilty. Now even at the end of deliberations, if all twelve people vote guilty but someone didn't believe he was guilty, even though he voted that way, then the person should be declared not guilty and set free. *American Jurisprudence* said there can be no conviction so long as one juror has a reasonable doubt of the guilt of the defendant. The card we read you said that post deliberation interviews showed that ten percent of the jurors were willing to admit that they were unconvinced when the vote was delivered. The people weren't convinced yet they voted the other way. According to our standard, people are being convicted when they shouldn't be. We win the point concerning the standard.

We tell you that pressures destroy individual convictions, and they drop that in the last rebuttal. That's pretty important. We gave you all those frightening studies and they don't want to deny them. They say they don't apply, but they most certainly do. From these, we prove the significance of the case. We read you [a] ten percent

card. Notice what the card said. It said that post deliberation interviews show that ten percent of the jurors were willing to admit that they were unconvinced on the verdict. They weren't convinced but they voted one way. By our standard, people are convicted unjustly.

But, finally, examine the point concerning double jeopardy. We tell you that hung juries reflect individual convictions of innocence. All we're saying here is that people should be set free when there's a hung jury. We're differing with the standard of the present system. That's obvious to all. The retrial of a hung jury verdict is [a] denial of the right against double jeopardy. Denise says it's only a logical extension. We're saying it should be extended this way under the present system. She refers to the Huey Newton example; but realize he was retried. Overall then, they don't justify deliberations; there are no plan attacks; unjust verdicts occur. I suggest for these reasons, we adopt the affirmative plan.